Public Law 97-248
97th Congress

An Act

Sept. 3, 1982
[H.R. 4961]

To provide for tax equity and fiscal responsibility, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tax Equity and Fiscal Responsibility Act of 1982.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.

26 USC 1 note.

(a) SHORT TITLE.—This Act may be cited as the "Tax Equity and Fiscal Responsibility Act of 1982".

(b) TABLE OF CONTENTS.—

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in titles II, III, and IV an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

Subtitle A—Medicare

PART I—CHANGES IN PAYMENTS FOR SERVICES

Subpart A—Amount of Payment for Institutional Services

PAYMENT FOR INPATIENT HOSPITAL SERVICES

SEC. 101. (a)(1) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENT TO HOSPITALS FOR INPATIENT HOSPITAL SERVICES

"SEC. 1886. (a)(1)(A)(i) The Secretary, in determining the amount of the payments that may be made under this title with respect to operating costs of inpatient hospital services (as defined in paragraph (4)) shall not recognize as reasonable (in the efficient delivery of health services) costs for the provision of such services by a hospital for a cost reporting period to the extent such costs exceed the applicable percentage (as determined under clause (ii)) of the average of such costs for all hospitals in the same grouping as such hospital for comparable time periods. 42 USC 1395ww.

"(ii) For purposes of clause (i), the applicable percentage for hospital cost reporting periods beginning—

"(I) on or after October 1, 1982, and before October 1, 1983, is 120 percent;

"(II) on or after October 1, 1983, and before October 1, 1984, is 115 percent; and

"(III) on or after October 1, 1984, is 110 percent.

"(B)(i) For purposes of subparagraph (A) the Secretary shall establish case mix indexes for all short-term hospitals, and shall set limits for each hospital based upon the general mix of types of

medical cases with respect to which such hospital provides services for which payment may be made under this title.

Cost reporting period, limitation.

"(ii) The Secretary shall set such limits for a cost reporting period of a hospital—

"(I) by updating available data for a previous period to the immediate preceding cost reporting period by the estimated average rate of change of hospital costs industry-wide, and

"(II) by projecting for the cost reporting period by the applicable percentage increase (as defined in subsection (b)(3)(B)).

"(C) The limitation established under subparagraph (A) for any hospital shall in no event be lower than the allowable operating costs of inpatient hospital services (as defined in paragraph (4)) recognized under this title for such hospital for such hospital's last cost reporting period prior to the hospital's first cost reporting period for which this section is in effect.

"(2) The Secretary shall provide for such exemptions from, and exceptions and adjustments to, the limitation established under paragraph (1)(A) as he deems appropriate, including those which he deems necessary to take into account—

"(A) the special needs of sole community hospitals, of new hospitals, of risk based health maintenance organizations, and of hospitals which provide atypical services or essential community services, and to take into account extraordinary circumstances beyond the hospital's control, medical and paramedical education costs, significantly fluctuating population in the service area of the hospital, and unusual labor costs,

"(B) the special needs of psychiatric hospitals and of public or other hospitals that serve a significantly disportionate number of patients who have low income or are entitled to benefits under part A of this title, and

"(C) a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

"(3) The limitation established under paragraph (1)(A) shall not apply with respect to any hospital which—

"(A) is located outside of a standard metropolitan statistical area, and

"(B)(i) has less than 50 beds, and

"(ii) was in operation and had less than 50 beds on the date of the enactment of this section.

"Operating costs of inpatient hospital services."

"(4) For purposes of this section, the term 'operating costs of inpatient hospital services' includes all routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services and such costs are determined on an average per admission or per discharge basis (as determined by the Secretary).

42 USC 1395f.
42 USC 1395e.

"(b)(1) Notwithstanding sections 1814(b) but subject to the provisions of sections 1813, if the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a hospital for a cost reporting period subject to this paragraph—

"(A) are less than or equal to the target amount (as defined in paragraph (3)) for that hospital for that period, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to the amount of such operating costs, plus—

"(i) 50 percent of the amount by which the target amount exceeds the amount of the operating costs, or

"(ii) 5 percent of the target amount,

whichever is less; or

"(B) are greater than the target amount, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to (i) the target amount, plus (ii) in the case of cost reporting periods beginning on or after October 1, 1982, and before October 1, 1984, 25 percent of the amount by which the amount of the operating costs exceeds the target amount;

except that in no case may the amount payable under this title with respect to operating costs of inpatient hospital services exceed the maximum amount payable with respect to such costs pursuant to subsection (a).

"(2) Paragraph (1) shall not apply to cost reporting periods of hospitals beginning on or after October 1, 1985.

"(3)(A) For purposes of this subsection, the term 'target amount' means, with respect to a hospital for a particular 12-month cost reporting period— "Target amount."

"(i) in the case of the first such reporting period for which this subsection is in effect, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for such hospital for the preceding 12-month cost reporting period, and

"(ii) in the case a later reporting period, the target amount for the preceding 12-month cost reporting period,

increased by the applicable percentage increase under subparagraph (B) for that particular cost reporting period.

"(B) For purposes of subparagraph (A), the 'applicable percentage increase' for any 12-month cost reporting period shall be equal to 1 percentage point plus the percentage, estimated by the Secretary, by which the cost of the mix of goods and services (including personnel costs but excluding non-operating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for such cost reporting period exceeds the cost of such mix of goods and services for the preceding 12-month cost reporting period. "Applicable percentage increase."

"(4)(A) The Secretary shall provide for an exemption from, or an exception and adjustment to, the method under this subsection for determining the amount of payment to a hospital where events beyond the hospital's control or extraordinary circumstances, including changes in the case mix of such hospital, create a distortion in the increase in costs for a cost reporting period (including any distortion in the costs for the base period against which such increase is measured). The Secretary may provide for such other exemptions from, and exceptions and adjustments to, such method as the Secretary deems appropriate, including those which he deems necessary to take into account a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

"(B) Paragraph (1) shall not apply to payment of hospitals which is otherwise determined under paragraph (3) of section 1814(b). 42 USC 1395f.

"(5) In the case of any hospital having any cost reporting period of other than a 12-month period, the Secretary shall determine the 12-month period which shall be used for purposes of this section.

"(6)(A) The Secretary shall provide for an adjustment under this paragraph in the amount of payment otherwise provided a hospital under this subsection in the case of a hospital which, as of August 15, 1982, was subject to the taxes (hereinafter in this paragraph referred to as the 'FICA taxes') imposed by section 3111 of the Internal Revenue Code of 1954 and which is not subject to such taxes for part or all of a cost reporting period beginning on or after October 1, 1982.

26 USC 3111.

Operating costs, estimate.

"(B) In making such adjustment for a cost reporting period the Secretary shall estimate the amount of the operating costs of inpatient hospital services that would have resulted if the hospital was subject to the FICA taxes during that period. In making such estimate the Secretary shall reduce the amount of such FICA taxes that would have been paid (but not below zero) by the amount of costs which the hospital demonstrates to the satisfaction of the Secretary were incurred in the period for pensions, health, and other fringe benefits for employees (and former employees and family members) comparable to, and in lieu of, the benefits provided under title II and this title of the Social Security Act.

42 USC 401.

"(C) If a hospital's operating costs of inpatient hospital services estimated under subparagraph (B) is greater than the hospital's operating costs of inpatient hospital services determined without regard to this paragraph for a cost reporting period, then the Secretary shall reduce the amount otherwise paid the hospital (respecting operating costs of inpatient hospital services) under this subsection for the period by the amount by which—

"(i) the amount that would have been paid the hospital if (I) the amount of the operating costs of inpatient hospital services estimated under subparagraph (B) were treated as the amount of the operating costs of inpatient hospital services and (II) subsection (a) did not apply to the determination,

exceeds—

"(ii) the amount that would otherwise have been paid the hospital if subsection (a) (and this paragraph) did not apply;

except that, in making such determination for cost reporting periods beginning on or after October 1, 1984, clause (ii) of paragraph (1)(B) shall continue to apply.

"(c)(1) The Secretary may provide, in his discretion, that payment with respect to services provided by a hospital in a State may be made in accordance with a hospital reimbursement control system in a State, rather than in accordance with the other provisions of this title, if the chief executive officer of the State requests such treatment and if—

"(A) the Secretary determines that the system, if approved under this subsection, will apply (i) to substantially all non-Federal acute care hospitals (as defined by the Secretary) in the State and (ii) to the review of at least 75 percent of all revenues or expenses in the State for inpatient hospital services and of revenues or expenses for inpatient hospital services provided under the State's plan approved under title XIX;

42 USC 1396.

"(B) the Secretary has been provided satisfactory assurances as to the equitable treatment under the system of all entities (including Federal and State programs) that pay hospitals for

inpatient hospital services, of hospital employees, and of hospital patients; and

"(C) the Secretary has been provided satisfactory assurances that under the system, over 36-month periods (the first such period beginning with the first month in which this subsection applies to that system in the State), the amount of payments made under this title under such system will not exceed the amount of payments which would otherwise have been made under this title not using such system.

"(2) In determining under paragraph (1)(C) the amount of payment which would otherwise have been made under this title for a State, the Secretary may provide for appropriate adjustment of such amount to take into account previous reductions effected in the amount of payments made under this title in the State due to the operation of the hospital reimbursement control system in the State if the system has resulted in an aggregate rate of increase in operating costs of inpatient hospital services (as defined in subsection (a)(4)) under this title for hospitals in the State which is less than the aggregate rate of increase in such costs under this title for hospitals in the United States.

"(3) The Secretary shall discontinue payments under a system described in paragraph (1) if the Secretary—

"(A) determines that the system no longer meets the requirement of paragraph (1)(A) or

"(B) has reason to believe that the assurances described in subparagraph (B) or (C) of paragraph (1) are not being (or will not be) met.".

(2) Section 1861(v)(1)(L) of such Act is amended by striking out "(i)" and all that follows through "(ii)". 95 Stat. 798. 42 USC 1395x.

(b)(1) The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1982. 42 USC 1395ww note.

(2)(A) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be necessary to implement such amendments on a timely basis. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than March 31, 1983. Regulations.

(B) Chapter 35 of title 5, United States Code, shall not apply, until January 1, 1984, to collection of information and information collection requests which the Secretary of Health and Human Services determines to be necessary to carry out the amendments made by this section. 5 USC 3501 *et seq.*

(3) Section 1135 of the Social Security Act is amended by adding at the end the following new subsection: 95 Stat. 809. 42 USC 1320b-5.

"(c) The Secretary shall develop, in consultation with the Senate Committee on Finance and the Committee on Ways and Means of the House of Representatives, proposals for legislation which would provide that hospitals, skilled nursing facilities, and, to the extent feasible, other providers, would be reimbursed under title XVIII of this Act on a prospective basis. The Secretary shall report such proposals to such committees not later than December 31, 1982.". 42 USC 1395. Report to congressional committees.

(c)(1) Section 1814(b) of the Social Security Act is amended— 42 USC 1395f.

(A) by striking out "section 1813" in the matter before paragraph (1) and inserting in lieu thereof "sections 1813 and 1886"; and

(B) by striking out "until the Secretary determines" in the second sentence and inserting in lieu thereof "until the first day of the seventh month beginning after the date the Secretary determines and notifies the Governor of the State".

42 USC 1395*l*. (2) Section 1833(a)(2)(B) of such Act is amended by inserting "and except as may be provided in section 1886" after "except those described in subparagraph (C) of this paragraph".

42 USC 1395x. (d) Section 1861(v)(7) of such Act is amended by inserting "(A)" after "(7)" and by adding at the end thereof the following new subparagraph:

"(B) For further limitations on reasonable cost and determination of payment amounts for operating costs of inpatient hospital services and waivers for certain States, see section 1886.".

Ante, p. 331.

SINGLE REIMBURSEMENT LIMIT FOR SKILLED NURSING FACILITIES

42 USC 1395x. SEC. 102. (a) Section 1861(v)(1) of the Social Security Act is amended—

(1) in subparagraph (E), by striking out "; except that" and all that follows and inserting in lieu thereof a period;

(2) in subparagraph (E), by striking out "(E)" and inserting in lieu thereof "(ii)"; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) Such regulations shall provide that any determination of reasonable cost with respect to services provided by hospital-based skilled nursing facilities shall be made on the basis of a single standard based on the reasonableness of costs incurred by free standing skilled nursing facilities, subject to such adjustments as the Secretary may deem appropriate.".

Effective date. 42 USC 1395x note. (b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after October 1, 1982.

ELIMINATION OF INPATIENT ROUTINE NURSING SALARY COST DIFFERENTIAL

SEC. 103. (a) Subparagraph (J) of section 1861(v)(1) of the Social Security Act is amended to read as follows:

95 Stat. 797. 42 USC 1395x. "(J) Such regulations may not provide for any inpatient routine salary cost differential as a reimbursable cost for hospitals and skilled nursing facilities.".

Effective date. 42 USC 1395x note. (b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from such amendment shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

42 USC 1395.

ELIMINATION OF DUPLICATE OVERHEAD PAYMENTS FOR OUTPATIENT SERVICES

42 USC 1395u. SEC. 104. (a) The last sentence of section 1842(b)(3) of the Social Security Act is amended by inserting after "1861(v)(1)(K)" the following: ", and in determining the reasonable charge for such services, the Secretary may limit such reasonable charge to a percentage of the amount of the prevailing charge for similar services furnished

in a physician's office, taking into account the extent to which overhead costs associated with such outpatient services have been included in the reasonable cost or charge of the facility".

(b) The amendment made by subsection (a) made by this section shall be effective with respect to services furnished on or after October 1, 1982. Effective date. 42 USC 1395u note.

SINGLE REIMBURSEMENT LIMIT FOR HOME HEALTH AGENCIES

SEC. 105. (a) Section 1861(v)(1)(L) of the Social Security Act, as amended by section 101(a)(2) of this subtitle, is amended by inserting "free standing" after "75th percentile of such costs per visit for". 42 USC 1395x.

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after the date of the enactment of this Act. Effective date. 42 USC 1395x note.

PROHIBITING PAYMENT FOR HILL-BURTON FREE CARE

SEC. 106. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end the following new subparagraph: 42 USC 1395x.

"(M) Such regulations shall provide that costs respecting care provided by a provider of services, pursuant to an assurance under title VI or XVI of the Public Health Service Act that the provider will make available a reasonable volume of services to persons unable to pay therefor, shall not be allowable as reasonable costs.". 42 USC 291a, 300o.

(b) The amendment made by subsection (a) shall be effective with respect to any costs incurred under title XVIII of the Social Security Act, except that it shall not apply to costs which have been allowed prior to the date of the enactment of this Act pursuant to the final court order affirmed by a United States Court of Appeals. Effective date. 42 USC 1395x note. 42 USC 1395.

PROHIBITING PAYMENT FOR ANTI-UNIONIZATION ACTIVITIES

SEC. 107. (a) Section 1861(v)(1) of the Social Security Act, as amended by section 106(a) of this subtitle, is further amended by adding after subparagraph (M) the following new subparagraph:

"(N) In determining such reasonable costs, costs incurred for activities directly related to influencing employees respecting unionization may not be included.".

(b) The amendment made by subsection (a) shall be effective with respect to costs incurred after the date of the enactment of this Act. Effective date. 42 USC 1395x note.

REIMBURSEMENT OF PROVIDER-BASED PHYSICIANS

SEC. 108. (a) Title XVIII of the Social Security Act is amended by adding after section 1886 of the Social Security Act (as added by section 101(a)(1) of this subtitle) the following new section:

"PAYMENT OF PROVIDER-BASED PHYSICIANS

"SEC. 1887. (a)(1) The Secretary shall by regulation determine criteria for distinguishing those services (including inpatient and outpatient services) rendered in hospitals or skilled nursing facilities— 42 USC 1395xx.

"(A) which constitute professional medical services, which are personally rendered for an individual patient by a physician and which contribute to the diagnosis or treatment of an indi-

vidual patient, and which may be reimbursed as physicians' services under part B, and

"(B) which constitute professional services which are rendered for the general benefit to patients in a hospital or skilled nursing facility and which may be reimbursed only on a reasonable cost basis.

"(2)(A) For purposes of cost reimbursement, the Secretary shall recognize as a reasonable cost of a hospital or skilled nursing facility only that portion of the costs attributable to services rendered by a physician in such hospital or facility which are services described in paragraph (1)(B), apportioned on the basis of the amount of time actually spent by such physician rendering such services.

"(B) In determining the amount of the payments which may be made with respect to services described in paragraph (1)(B), after apportioning costs as required by subparagraph (A), the Secretary may not recognize as reasonable (in the efficient delivery of health services) such portion of the provider's costs for such services to the extent that such costs exceed the reasonable compensation equivalent for such services. The reasonable compensation equivalent for any service shall be established by the Secretary in regulations.

"(C) The Secretary may, upon a showing by a hospital or facility that it is unable to recruit or maintain an adequate number of physicians for the hospital or facility on account of the reimbursement limits established under this subsection, grant exceptions to such reimbursement limits as may be necessary to allow such provider to provide a compensation level sufficient to provide adequate physician services in such hospital or facility.".

(2) Section 1861(v)(7) of such Act, as amended by section 101(d) of this subtitle, is further amended by adding at the end the following new subparagraph:

Ante, p. 336.

"(C) For provisions restricting payment for provider-based physicians' services, see section 1887.".

Ante, p. 337.

Regulations.
42 USC 1395xx note.

(c) The Secretary of Health and Human Services shall first promulgate regulations to carry out section 1887(a) of the Social Security Act not later than October 1, 1982. Such regulations shall become effective on October 1, 1982, and shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from such regulations shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

Ante, p. 337.

42 USC 1395.

PROHIBITING RECOGNITION OF PAYMENTS UNDER CERTAIN PERCENTAGE ARRANGEMENTS

SEC. 109. (a) Section 1887 of the Social Security Act (as added by section 108(a) of this subtitle) is amended—

(1) by inserting "AND PAYMENT UNDER CERTAIN PERCENTAGE ARRANGEMENTS" at the end of its heading, and

(2) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), in the case of a provider of services which is paid under this title on a reasonable cost basis, or other basis related to costs that are reasonable, and which has entered into a contract for the purpose of having services furnished for or on behalf of it, the Secretary may not include any cost incurred by the provider under the contract if the amount

payable under the contract by the provider for that cost is determined on the basis of a percentage (or other proportion) of the provider's charges, revenues, or claim for reimbursement.

"(2) Paragraph (1) shall not apply—

"(A) to services furnished by a physician and described in subsection (a)(1)(B) and covered by regulations in effect under subsection (a), and

"(B) under regulations established by the Secretary, where the amount involved under the percentage contract is reasonable and the contract—

"(i) is a customary commercial business practice, or

"(ii) provides incentives for the efficient and economical operation of the provider of services.".

(b)(1) Section 1861(v)(1)(H)(iii) of such Act is amended by striking out "(I)" and by striking out ", or (II)" and all that follows through "furnished by the agency". 42 USC 1395x.

(2) Section 1861(v)(7)(C) of such Act, as added by section 108(b)(2) of this subtitle, is further amended by inserting "and for payments under certain percentage arrangements" after "services". *Ante*, p. 338.

(c)(1) The amendments made by this section shall become effective on the date of the enactment of this Act, except that section 1887(b)(1) of the Social Security Act shall not apply before October 1, 1982, to services furnished by a physician and described in section 1887(a)(1)(B) of such Act. Effective date. 42 USC 1395xx note. *Ante*, p. 338.

(2) In the case of a contract with a provider of services entered into prior to the date of the enactment of this Act, the amendment made by subsection (a) shall apply to payments under such contract (A) 30 days after the first date (after such date of enactment) the provider of services may unilaterally terminate the contract, or (B) one year after the date of the enactment of this Act, whichever is earlier.

(3) The amendment made by subsection (b)(1) shall not apply to contracts entered into before the date of the enactment of this Act. 42 USC 1395x note.

ELIMINATION OF LESSER-OF-COST-OR-CHARGE PROVISION

SEC. 110. Section 1886 of the Social Security Act, as added by section 101(a)(1) of this subtitle, is amended by adding at the end the following new subsection: *Ante*, p. 331.

"(d)(1) The lesser-of-cost-or-charges provisions (described in paragraph (2)) will not apply in the case of services provided by a class of provider of services if the Secretary determines and certifies to Congress that the failure of such provisions to apply to the services provided by that class of providers will not result in any increase in the amount of payments made for those services under this title. Such change will take effect with respect to services furnished, or cost reporting periods of providers, on or after such date as the Secretary shall provide in the certification. Such change for a class of provider shall be discontinued if the Secretary determines and notifies Congress that such change has resulted in an increase in the amount of payments made under this title for services provided by that class of provider.

"(2) The lesser-of-cost-or-charges provisions referred to in paragraph (1) are as follows:

"(A) Clause (B) of paragraph (1) and paragraph (2) of section 1814(b). 42 USC 1395f.

42 USC 1395*l*.
42 USC 1395x.

"(B) So much of subparagraph (A) of section 1833(a)(2) as provides for payment other than of the reasonable cost of such services, as determined under section 1861(v).

"(C) Subclause (II) of clause (i) and clause (ii) of section 1833(a)(2)(B).".

ELIMINATION OF PRIVATE ROOM SUBSIDY

42 USC 1395x note.

SEC. 111. (a) The Secretary of Health and Human Services shall, pursuant to section 1861(v)(2) of the Social Security Act, not allow as a reasonable cost the estimated amount by which the costs incurred by a hospital or skilled nursing facility for nonmedically necessary private accommodations for medicare beneficiaries exceeds the costs which would have been incurred by such hospital or facility for semiprivate accommodations.

Regulations.

(b) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) as may be necessary to implement subsection (a) by October 1, 1982. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than January 31, 1983.

Subpart B—Payments for Other Services

REIMBURSEMENT FOR INPATIENT RADIOLOGY AND PATHOLOGY SERVICES

42 USC 1395*l*.

SEC. 112. (a) Section 1833(a)(1) of the Social Security Act is amended—

(1) by striking out clause (B) and inserting in lieu thereof the following: "(B) with respect to items and services described in section 1861(s)(10), the amounts paid shall be 100 percent of the reasonable charges for such items and services,";

(2) by inserting "and" at the end of clause (F); and

(3) by striking out "and (H)" and all that follows through "for such items and services,".

(b) Clause (1) of section 1833(b) of such Act is amended to read as follows: "(1) such total amount shall not include expenses incurred for items and services described in section 1861(s)(10),".

Effective date.
42 USC 1395*l* note.

(c) The amendments made by this section shall apply with respect to items and services furnished on or after October 1, 1982.

REIMBURSEMENT FOR ASSISTANTS AT SURGERY

42 USC 1395u.

SEC. 113. (a) Section 1842(b)(6) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D)(i) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section 1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), no payment shall be made under this part for services of assistants at surgery with respect to a surgical procedure if such hospital has a training program relating to the medical specialty required for such surgical procedure and a qualified individual on the staff of the hospital is available to provide such services; except that payment may be made under this part for such

42 USC 1395x.

services, to the extent that such payment is otherwise allowed under this paragraph, if such services, as determined under regulations of the Secretary—

"(I) are required due to exceptional medical circumstances,

"(II) are performed by team physicians needed to perform complex medical procedures, or

"(III) constitute concurrent medical care relating to a medical condition which requires the presence of, and active care by, a physician of another specialty during surgery,

and under such other circumstances as the Secretary determines by regulation to be appropriate.

"(ii) For purposes of this subparagraph, the term 'assistant at surgery' means a physician who actively assists the physician in charge of a case in performing a surgical procedure. "Assistant at surgery."

"(iii) The Secretary shall determine appropriate methods of reimbursement of assistants at surgery where such services are reimbursable under this part.".

(b)(1) The amendment made by subsection (a) is effective with respect to services performed on or after October 1, 1982. Effective date. 42 USC 1395u note.

(2) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be necessary to implement the amendment made by subsection (a) on a timely basis. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than January 31, 1983.

PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 114. (a) Section 1876 of the Social Security Act is amended to read as follows: 42 USC 1395mm.

"PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

"SEC. 1876. (a)(1)(A) The Secretary shall annually determine—

"(i) a per capita rate of payment for each class of individuals who are enrolled under this section with an eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and 42 USC 1395c, 1395j.

"(ii) a per capita rate of payment for each class of individuals who are so enrolled with such an organization and who are enrolled under part B only.

For purposes of this section, the term 'risk-sharing contract' means a contract entered into under subsection (g) and the term 'reasonable cost reimbursement contract' means a contract entered into under subsection (h). Definitions.

"(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(C) The annual per capita rate of payment for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in paragraph (4)) for that class.

"(D) In the case of an eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (C) and except as provided in subsection (g)(2), to the organization for each individual enrolled with the organization under this section.

"(E) The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(2) With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with subsection (h)(2) rather than paragraph (1).

"(3) Payments under a contract to an eligible organization under paragraph (1) or (2) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this section.

Ante, p. 335.
42 USC 1395*l*.

"Adjusted average per capita cost."

"(4) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than an eligible organization or, in the case of services covered only under section 1861(s)(2)(H), if the services were to be furnished by a physician or as an incident to a physician's service.

42 USC 1395h, 1395u.

Post, p. 350.

"(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such individuals for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1), and

42 USC 1395r.

"(B) the product of (i) the number of such individuals for the month who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(4).

The remainder of that payment shall be paid by the former trust fund.

"(6) If an individual is enrolled under this section with an eligible organization having a risk-sharing contract, only the eligible organi-

zation shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(b) For purposes of this section, the term 'eligible organization' means a public or private entity (which may be a health maintenance organization or a competitive medical plan), organized under the laws of any State, which— "Eligible organization."

"(1) is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), or 42 USC 300e-9.

"(2) meets the following requirements:

"(A) The entity provides to enrolled members at least the following health care services:

"(i) Physicians' services performed by physicians (as defined in section 1861(r)(1)). 42 USC 1395x.

"(ii) Inpatient hospital services.

"(iii) Laboratory, X-ray, emergency, and preventive services.

"(iv) Out-of-area coverage.

"(B) The entity is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(C) The entity provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"(D) The entity assumes full financial risk on a prospective basis for the provision of the health care services listed in paragraph (1), except that such entity may—

"(i) obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in subparagraph (A) the aggregate value of which exceeds $5,000 in any year,

"(ii) obtain insurance or make other arrangements for the cost of health care service listed in subparagraph (A) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity,

"(iii) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(iv) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(E) The entity has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

Paragraph (2)(A)(ii) shall not apply to an entity which had contracted with a single State agency administering a State plan
42 USC 1396. approved under title XIX for the provision of services (other than inpatient hospital services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970.

"(c)(1) The Secretary may not enter into a contract under this section with an eligible organization unless it meets the requirements of this subsection and subsection (e) with respect to members enrolled under this section.

"(2) The organization must provide to members enrolled under this section, through providers and other persons that meet the
42 USC 1301. applicable requirements of this title and part A of title XI—

"(A) only those services covered under parts A and B of this
42 USC 1395c, 1395j. title, for those members entitled to benefits under part A and enrolled under part B, or

"(B) only those services covered under part B, for those members enrolled only under such part,

which are available to individuals residing in the geographic area served by the organization, except that (i) the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered, and (ii) in the case of an organization with a risk-sharing contract, the organization may provide such members with such additional health care services as the Secretary may approve. The Secretary shall approve any such additional health care services which the organization proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by covered individuals with the organization.

"(3)(A) Each eligible organization must have an open enrollment period, for the enrollment of individuals under this section, of at least 30 days duration every year, and must provide that at any time during which enrollments are accepted, the organization will accept up to the limits of its capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment, unless to do so would result in failure to meet the requirements of subsection (f) or would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by the organization.

"(B) An individual may enroll under this section with an eligible organization in such manner as may be prescribed in regulations and may terminate his enrollment with the eligible organization as of the beginning of the first calendar month following a full calendar month after the request is made for such termination (or, in the case of financial insolvency of the organization, as may be prescribed by regulations) or, in the case of such an organization with a reasonable cost reimbursement contract, as may be prescribed by regulations.

"(C) The Secretary may prescribe the procedures and conditions under which an eligible organization that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the organization about the organization, or may enroll such individuals with the organization.

"(D) The organization must provide assurances to the Secretary that it will not expel or refuse to re-enroll any such individual

because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment.

"(4) The organization must—

"(A) make the services described in paragraph (2) (and such other health care services as such individuals have contracted for) (i) available and accessible to each such individual, within the area served by the organization, promptly as appropriate and in a manner which assures continuity, and (ii) when medically necessary, available and accessible twenty-four hours a day and seven days a week, and

"(B) provide for reimbursement with respect to services which are described in subparagraph (A) and which are provided to such an individual other than through the organization, if (i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition and (ii) it was not reasonable given the circumstances to obtain the services through the organization.

"(5)(A) The organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and members enrolled with the organization under this section.

"(B) A member enrolled with an eligible organization under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the eligible organization a party. If the amount in controversy is $1,000 or more, the individual or eligible organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the eligible organization shall be entitled to be parties to that judicial review. 42 USC 405.

"(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals, which program (A) stresses health outcomes and (B) provides review by physicians and other health care professionals of the process followed in the provision of such health care services.

"(d) Subject to the provisions of subsection (c)(3), every individual entitled to benefits under part A and enrolled under part B or enrolled under part B only (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this section with any eligible organization with which the Secretary has entered into a contract under this section and which serves the geographic area in which the individual resides. 42 USC 1395c, 1395j.

"(e)(1) In no case may—

"(A) the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under parts A and B) to individuals who are enrolled under this section with the organization and who are entitled to benefits under part A and enrolled under part B, or

"(B) the portion of its premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with

respect to services covered under part B) to individuals who are enrolled under this section with the organization and enrolled under part B only

exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B, or enrolled under part B only, respectively, if they were not members of an eligible organization.

42 USC 1395c, 1395j.

"(2) If the eligible organization provides to its members enrolled under this section services in addition to services covered under parts A and B of this title, election of coverage for such additional services (unless such services have been approved by the Secretary under subsection (c)(2)) shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

"(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

"(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such services.

"Adjusted community rate."

"(3) For purposes of this section, the term 'adjusted community rate' for a service or services means, at the election of an eligible organization, either—

"Community rating system."

"(A) the rate of payment for that service or services which the Secretary annually determines would apply to a member enrolled under this section with an eligible organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

95 Stat. 575. 42 USC 300e-1.

"(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to a member enrolled under this section with the eligible organization, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the members enrolled with the eligible organization under this section and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of members in other eligible organizations, or individuals in the area, in the State, or in the United States, eligible to enroll under this section with an eligible organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(4) Notwithstanding any other provision of law, the eligible organization may (in the case of the provision of services to a member enrolled under this section for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or plan of the United States or a State, under an automobile or

liability insurance policy or plan, including a self-insured plan, or under no fault insurance) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such member to the extent that the member has been paid under such law, plan, or policy for such services.

"(f)(1) Each eligible organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX. 42 USC 1396.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) only if the Secretary determines that— Waiver.

"(A) special circumstances warrant such modification or waiver, and

"(B) the eligible organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(g)(1) The Secretary may enter a risk-sharing contract with any eligible organization, as defined in subsection (b)(1), which has at least 5,000 members, except that the Secretary may enter into such a contract with an eligible organization that has fewer members if the organization primarily serves members residing outside of urbanized areas. Risk-sharing contract.

"(2) Each risk-sharing contract shall provide that— Provisions.

"(A) if the adjusted community rate, as defined in subsection (e)(3), for services under parts A and B (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization and entitled to benefits under part A and enrolled in part B, or 42 USC 1395c, 1395j.

"(B) if the adjusted community rate for services under part B (as reduced for the actuarial value of the coinsurance and deductibles under that part) for members enrolled under this section with the organization and entitled to benefits under part B only

is less than the average of the per capita rates of payment to be made under subsection (a)(1) at the beginning of an annual contract period for members enrolled under this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the eligible organization shall provide to members enrolled under a risk-sharing contract under this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the additional benefits described in paragraph (3) which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced); except that this paragraph shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced). If the Secretary finds that there is insufficient enrollment experience to determine an average of the per capita rates of payment to be made under subsection (a)(1)

at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this section.

"(3) The additional benefits referred to in paragraph (2) are—

"(A) the reduction of the premium rate or other charges made with respect to services furnished by the organization to members enrolled under this section, or

"(B) the provision of additional health benefits,

or both.

"(h)(1) If—

"(A) the Secretary is not satisfied that an eligible organization has the capacity to bear the risk of potential losses under a risk-sharing contract under this section, or

"(B) the eligible organization so elects or has an insufficient number of members to be eligible to enter into a risk-sharing contract under subsection (g)(1),

the Secretary may, if he is otherwise satisfied that the eligible organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in paragraph (3).

42 USC 1395x.

"(2) A reasonable cost reimbursement contract under this subsection may, at the option of such organization, provide that the Secretary—

"(A) will reimburse hospitals and skilled nursing facilities either for the reasonable cost (as determined under section 1861(v)) or for payment amounts determined in accordance with section 1886, as applicable, of services furnished to individuals enrolled with such organization pursuant to subsection (d), and

Ante, p. 331.

"(B) will deduct the amount of such reimbursement from payment which would otherwise be made to such organization.

If such an eligible organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) or the amount determined under section 1886, as applicable, unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

"(3) Payments made to an organization with a reasonable cost reimbursement contract shall be subject to appropriate retroactive corrective adjustment at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding any part of incurred cost found to be unnecessary in the efficient delivery of health services) or the amounts otherwise determined under section 1886 for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in subsection (a)(1).

"(4) Any reasonable cost reimbursement contract with an eligible organization under this subsection shall provide that the Secretary shall require, at such time following the expiration of each accounting period of the eligible organization (and in such form and in such detail) as he may prescribe—

"(A) that the organization report to him in an independently certified financial statement its per capita incurred cost based on the types of components of expenses otherwise reimbursable under this title for providing services described in subsection

(a)(1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this section and other individuals enrolled with such organization;

"(B) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

"(C) that in any case in which an eligible organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this title, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the eligible organization by related organizations and owners) issued by the Secretary; and

Filing of a consolidated financial statement.

"(D) that in any case in which compensation is paid by an eligible organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

Distribution of profits.

"(i)(1) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the eligible organization involved as he may provide in regulations), if he finds that the organization—

"(A) has failed substantially to carry out the contract,

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), and (e).

"(2) The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(3) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate (I) the quality, appropriateness, and timeliness of services performed under the contract and (II) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(ii) shall have the right to audit and inspect any books and records of the eligible organization that pertain (I) to the ability of the organization to bear the risk of potential financial losses, or (II) to services performed or determinations of amounts payable under the contract;

"(B) shall require the organization with a risk-sharing contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the organization; and

"(C) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members); and

42 USC 300e-17.

42 USC 300e.

"(D) shall contain such other terms and conditions not inconsistent with this section (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(4) The Secretary may not enter into a risk-sharing contract with an eligible organization if a previous risk-sharing contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) The authority vested in the Secretary by this section may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

42 USC 1395x.

(b) Section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by inserting "and" after the semicolon in subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) services furnished pursuant to a contract under section 1876 to a member of an eligible organization by a physician assistant or by a nurse practitioner (as defined in subsection (aa)(3)) and such services and supplies furnished as an incident to his service to such a member as would otherwise be covered under this part if furnished by a physician or as an incident to a physician's service;".

Ante, p. 341.

42 USC 1395mm note.

(c)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply with respect to services furnished on or after the initial effective date (as defined in paragraph (4)), except that such amendment shall not apply—

(A) with respect to services furnished by an eligible organization to any individual who is enrolled with that organization under an existing cost contract (as defined in paragraph (3)(A)) and entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act at the time the organization first enters into a new risk-sharing contract (as defined in paragraph (3)(D)) unless—

42 USC 1395c, 1395j.

(i) the individual requests at any time that the amendment apply, or

(ii) the Secretary determines at any time that the amendment should apply to all members of the organization because of administrative costs or other administrative burdens involved and so informs in advance each affected member of the eligible organization;

(B) with respect to services furnished by an eligible organization during the five-year period beginning on the initial effective date, if—

(i) the organization has an existing risk-sharing contract (as defined in paragraph (3)(B)) on the initial effective date, or

(ii) on the date of the enactment of this Act the organization was furnishing services pursuant to an existing demonstration project (as defined in paragraph (3)(C)), such demonstration project is concluded before the initial effective date, and before such initial effective date the organization enters into an existing risk-sharing contract,

unless the organization requests that the amendment apply earlier; or

(C) with respect to services furnished by an eligible organization during the period of an existing demonstration project if on the initial effective date the organization was furnishing services pursuant to the project and if the project concludes after such date.

(2)(A) In the case of an eligible organization which has in effect an existing cost contract (as defined in paragraph (3)(A)) on the initial effective date, the organization may receive payment under a new risk-sharing contract with respect to a current, nonrisk medicare enrollee (as defined in subparagraph (C)) only to the extent that the organization enrolls, for each such enrollee, two new medicare enrollees (as defined in subparagraph (D)). The selection of those current nonrisk medicare enrollees with respect to whom payment may be so received under a new risk-sharing contract shall be made in a nonbiased manner.

(B) Subparagraph (A) shall not be construed to prevent an eligible organization from providing for enrollment, on a basis described in subsection (a)(6) of section 1876 of the Social Security Act (as amended by this Act, other than under a reasonable cost reimbursement contract), of current, nonrisk medicare enrollees and from providing such enrollees with some or all of the additional benefits described in section 1876(g)(2) of the Social Security Act (as amended by this Act), but (except as provided in subparagraph (A))— *Ante*, p. 341.

(i) payment to the organization with respect to such enrollees shall only be made in accordance with the terms of a reasonable cost reimbursement contract, and

(ii) no payment may be made under section 1876 of such Act with respect to such enrollees for any such additional benefits.

Individuals enrolled with the organization under this subparagraph shall be considered to be individuals enrolled with the organization for the purpose of meeting the requirement of section 1876(g)(2) of the Social Security Act (as amended by this Act).

(C) For purposes of this paragraph, the term "current, nonrisk medicare enrollee" means, with respect to an organization, an individual who on the initial effective date— "Current, nonrisk medicare enrollee."

(i) is enrolled with that organization under an existing cost contract, and

(ii) is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act. 42 USC 1395c, 1395j.

(D) For purposes of this paragraph, the term "new medicare enrollee" means, with respect to an organization, an individual who—

(i) is enrolled with the organization after the date the organization first enters into a new risk-sharing contract,

(ii) at the time of such enrollment is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act, and

(iii) was not enrolled with the organization at the time the individual became entitled to benefits under part A, or to enroll in part B, of such title.

Definitions.

(3) For purposes of this subsection:

(A) The term "existing cost contract" means a contract which is entered into under section 1876 of the Social Security Act, as in effect before the initial effective date, or reimbursement on a reasonable cost basis under section 1833(a)(1)(A) of such Act, and which is not an existing risk-sharing contract or an existing demonstration project.

Ante, p. 341.

42 USC 1395*l*.

(B) The term "existing risk-sharing contract" means a contract entered into under section 1876(i)(2)(A) of the Social Security Act, as in effect before the initial effective date.

(C) The term "existing demonstration project" means a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, relating to the provision of services for which payment may be made under title XVIII of the Social Security Act.

81 Stat. 930.
86 Stat. 1390.
42 USC 1395.

(D) The term "new risk-sharing contract" means a contract entered into under section 1876(g) of the Social Security Act, as amended by this Act.

(E) The term "reasonable cost reimbursement contract" means a contract entered into under section 1833(a)(1) of the Social Security Act or under section 1876(h) of such Act, as amended by this Act.

(4) As used in this section, the term "initial effective date" means—

(A) the first day of the thirteenth month which begins after the date of the enactment of this Act, or

(B) the first day of the first month after the month in which the Secretary of Health and Human Services notifies the Committee on Finance of the Senate and the Committees on Ways and Means and on Energy and Commerce of the House of Representatives that he is reasonably certain that the methodology to make appropriate adjustments (referred to in section 1876(a)(4) of the Social Security Act, as amended by this Act) has been developed and can be implemented to assure actuarial equivalence in the estimation of adjusted average per capita costs under that section,

whichever is later.

Study.
42 USC 1395mm note.

(d) The Secretary of Health and Human Services shall conduct a study of the additional benefits selected by eligible organizations pursuant to section 1876(g)(2) of the Social Security Act, as amended by subsection (a) of this section. The Secretary shall report to the Congress within 24 months of the initial effective date (as defined in subsection (c)(4)) with respect to the findings and conclusions made as a result of such study.

Report to Congress.

Study.
42 USC 1395mm note.

(e) The Secretary of Health and Human Services shall conduct a study evaluating the extent of, and reasons for, the termination by medicare beneficiaries of their memberships in organizations with contracts under section 1876 of the Social Security Act. Such study may be coordinated with the study provided for under section 2178(d) of the Omnibus Budget Reconciliation Act of 1981. In conducting such study, the Secretary shall place special emphasis on the quantity and quality of medical care provided in such organizations and the quality of such care when provided on a fee-for-service

95 Stat. 813.
42 USC 1396a note.

basis. The Secretary shall submit an interim report to the Congress, within two years after the initial effective date (as defined in subsection (c)(4)), and a final report within five years after such date containing the respective interim and final findings and conclusions made as a result of such study. Report to Congress.

PROHIBITION OF PAYMENT FOR INEFFECTIVE DRUGS

SEC. 115. (a) Effective September 30, 1982, section 131 of Public Law 97-92 is repealed, and the provisions of such section, and of section 210 of the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1982 (H.R. 4560), as passed by the House of Representatives on October 6, 1981, and of section 209 of such Act as reported by the Senate Committee on Appropriations on November 9, 1981, shall not apply to any sums appropriated for fiscal year 1983 or any succeeding fiscal year. Repeal. 95 Stat. 1199.

(b) No provision of law limiting the use of funds for purposes of enforcing or implementing section 1862(c) or section 1903(i)(5) of the Social Security Act, section 2103 of the Omnibus Budget Reconciliation Act of 1981, or any rule or regulation issued pursuant to any such section (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations) shall apply to any period after September 30, 1982, unless such provision of law is enacted after the date of the enactment of this Act and specifically states that such provision is to supersede this section. 42 USC 1395y note. 42 USC 1395y, 1396b. 95 Stat. 787.

Subpart C—Other Payment Provisions

MEDICARE PAYMENTS SECONDARY FOR OLDER WORKERS COVERED UNDER GROUP HEALTH PLANS

SEC. 116. (a) Section 4 of the Age Discrimination in Employment Act of 1967 is amended by adding at the end thereof the following new subsection: 29 USC 623.

"(g)(1) For purposes of this section, any employer must provide that any employee aged 65 through 69 shall be entitled to coverage under any group health plan offered to such employees under the same conditions as any employee under age 65.

"(2) For purposes of paragraph (1), the term 'group health plan' has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.". "Group health plan." 26 USC 162.

(b) Section 1862(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 1395y.

"(3)(A)(i) Payment under this title may not be made, except as provided in clause (ii), with respect to any item or service furnished during the period described in clause (iii) to an individual who is over 64 but under 70 years of age (or to the spouse of such individual, if the spouse is over 64 but under 70 years of age) who is employed at the time such item or service is furnished to the extent that payment with respect to expenses for such item or service has been made, or can reasonably be expected to be made, under a group health plan (as defined in clause (iv)) under which such individual is covered by reason of such employment.

"(ii) Any payment under this title with respect to any item or service during the period described in clause (iii) shall be condi-

tioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been made under a group health plan. The Secretary may waive the provisions of this clause in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.

"Waiver."

"(iii) The provisions of clauses (i) and (ii) shall apply to an individual only for the period beginning with the month in which such individual becomes entitled to benefits under this title under section 226(a) and ending with the month in which such individual attains the age of 70 and shall not include any month for which the individual would, upon application, be entitled to benefits under section 226A.

42 USC 426.

42 USC 426-1.

"(iv) For purposes of this paragraph, the term 'group health plan' has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.

"Group health plan."

26 USC 162.

"(B) Where payment for an item or service under a group health plan is less than the amount of the charge for such item or service, payment may be made under this title (without regard to deductibles and coinsurance under this title) for the remainder of such charge, but—

"(i) such payment under this title may not exceed an amount which would be payable under this title for such item or service in the absence of such group health plan; and

"(ii) such payment under this title, when combined with the amount payable under such plan, may not exceed—

"(I) in the case of an item or service payment for which is determined under this title on the basis of reasonable cost (or other cost-related basis) or under section 1886, the amount which would be payable under this title on such basis; and

Ante, p. 331.

"(II) in the case of an item or service for which payment is authorized under this title on another basis, the greater of—

"(a) the amount which would be payable under the group health plan (without regard to deductibles and coinsurance under such plan), or

"(b) the reasonable charge or other amount which would be payable under this title (without regard to deductibles and coinsurance under this title).".

Effective date.

29 USC 623 note.

(c) The amendment made by subsection (a) shall become effective on January 1, 1983, and the amendment made by subsection (b) shall apply with respect to items and services furnished on or after such date.

INTEREST CHARGES ON OVERPAYMENTS AND UNDERPAYMENTS

42 USC 1395g.

SEC. 117. (a)(1) Section 1815 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) Whenever a final determination is made that the amount of payment made under this part to a provider of services was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 30 days of the date of the determination, interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate deter-

mined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.".

(2) Section 1833 of such Act is amended by adding at the end the following new subsection: 42 USC 1395*l*.

"(j) Whenever a final determination is made that the amount of payment made under this part either to a provider of services or to another person pursuant to an assignment under section 1842(b)(3)(B)(ii) was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 30 days of the date of the determination, interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.". 42 USC 1395u.

(b) The amendments made by subsection (a) apply to final determinations made on or after the date of the enactment of this Act. 42 USC 1395g note.

AUDIT AND MEDICAL CLAIMS REVIEW

SEC. 118. In addition to any funds otherwise provided for fiscal years 1983, 1984, and 1985 for payments to intermediaries and carriers under agreements entered into under sections 1816 and 1842 of the Social Security Act, there are transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Fund in such proportions as the Secretary of Health and Human Services determines to be appropriate, an additional $45,000,000 for each of such fiscal years for payments to such intermediaries and carriers under such agreements to be used exclusively for the purpose of carrying out provider cost audits and reviews of medical necessity, consistent with the provisions of sections 1816 and 1842 of the Social Security Act. 42 USC 1395h note. 42 USC 1395h, 1395u.

PRIVATE SECTOR REVIEW INITIATIVE

SEC. 119. (a) The Secretary of Health and Human Services shall undertake an initiative to improve medical review by intermediaries and carriers under title XVIII of the Social Security Act and to encourage similar review efforts by private insurers and other private entities. The initiative shall include the development of specific standards for measuring the performance of such intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services. 42 USC 1395cc note. 42 USC 1395.

(b) Where such review activity results in the denial of payment to providers of services under title XVIII of the Social Security Act, such providers shall be prohibited, in accordance with sections 1866 and 1879 of such title, from collecting any payments from beneficiaries unless otherwise provided under such title.

TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS

SEC. 120. Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that— 42 USC 1395g note. 42 USC 1395g.

(1) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1983, such payments shall be deferred until fiscal year 1984; and

(2) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1984, such payments shall be deferred until fiscal year 1985.

PART II—CHANGES IN BENEFITS, PREMIUMS, AND ENROLLMENT

MEDICARE COVERAGE OF FEDERAL EMPLOYEES

SEC. 121. For provisions providing certain employees of the United States and instrumentalities thereof with entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act, see section 278 of this Act.

Post, p. 559.

HOSPICE CARE

42 USC 1395c.

SEC. 122. (a)(1) Section 1811 of the Social Security Act is amended by striking out "and home health services" and inserting in lieu thereof "home health services, and hospice care".

45 USC 231f.

(2) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by inserting "hospice care," after "home health services,".

42 USC 1395d.

(b)(1) Section 1812(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph:

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each and one subsequent period of 30 days with respect to which the individual makes an election under subsection (d)(1).".

(2) Section 1812 of such Act is further amended by inserting after subsection (c) the following new subsection:

"(d)(1) Payment under this part may be made for hospice care provided with respect to an individual only during two periods of 90 days each and one subsequent period of 30 days during the individual's lifetime and only, with respect to each such period, if the individual makes an election under this paragraph to receive hospice care under this part provided by, or under arrangements made by, a particular hospice program instead of certain other benefits under this title.

"(2)(A) Except as provided in subparagraphs (B) and (C) and except in such exceptional and unusual circumstances as the Secretary may provide, if an individual makes such an election for a period with respect to a particular hospice program, the individual shall be deemed to have waived all rights to have payment made under this title with respect to—

"(i) hospice care provided by another hospice program (other than under arrangements made by the particular hospice program) during the period, and

"(ii) services furnished during the period that are determined (in accordance with guidelines of the Secretary) to be—

"(I) related to the treatment of the individual's condition with respect to which a diagnosis of terminal illness has been made or

"(II) equivalent to (or duplicative of) hospice care;

except that clause (ii) shall not apply to physicians' services furnished by the individual's attending physician (if not an employee of the hospice program) or to other than services provided by (or under arrangements made by) the hospice program.

"(B) After an individual makes such an election with respect to a 90- or 30-day period, the individual may revoke the election during the period, in which case—

"(i) the revocation shall act as a waiver of the right to have payment made under this part for any hospice care benefits for the remaining time in such period and (for purposes of subsection (a)(4) and subparagraph (A)) the individual shall be deemed to have been provided such benefits during such entire period, and

"(ii) the individual may at any time after the revocation execute a new election for a subsequent period, if the individual otherwise is entitled to hospice care benefits with respect to such a period.

"(C) An individual may, once in each such period, change the hospice program with respect to which the election is made and such change shall not be considered a revocation of an election under subparagraph (B).

"(D) For purposes of this title, an individual's election with respect to a hospice program shall no longer be considered to be in effect with respect to that hospice program after the date the individual's revocation or change of election with respect to that election takes effect.".

(c)(1) Section 1814(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and by inserting after paragraph (7) the following new paragraph: 42 USC 1395f.

"(8) in the case of hospice care provided an individual—

"(A)(i) in the first 90-day period—

"(I) the individual's attending physician (as defined in section 1861(dd)(3)(B)), and *Post*, p. 359.

"(II) the medical director (or physician member of the interdisciplinary group described in section 1861(dd)(2)(B)) of the hospice program providing (or arranging for) the care,

each certify, not later than two days after hospice care is initiated, that the individual is terminally ill (as defined in section 1861(dd)(3)(A)), and

"(ii) in a subsequent 90- or 30-day period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;

"(B) a written plan for providing hospice care with respect to such individual has been established (before such care is provided by, or under arrangements made by, that hospice program) and is periodically reviewed by the individual's attending physician and by the medical director (and the interdisciplinary group described in section 1861(dd)(2)(B)) of the hospice program; and

"(C) such care is being or was provided pursuant to such plan of care.".

42 USC 1395f.

(2)(A) Section 1814(b) of such Act is amended by inserting "(other than a hospice program providing hospice care)" after "The amount paid to any provider of services".

(B) Section 1814 of such Act is further amended by adding at the end the following new subsection:

"PAYMENT FOR HOSPICE CARE

"(i)(1) Subject to the limitation under paragraph (2) and the provisions of section 1813(a)(4), the amount paid to a hospice program with respect to hospice care for which payment may be made under this part shall be an amount equal to the costs which are reasonable and related to the cost of providing hospice care or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations (including those authorized under section 1861(v)(1)(A)), except that no payment may be for bereavement counseling and no reimbursement may be made for other counseling services (including nutritional and dietary counseling) as separate services.

Post, p. 361.

"(2)(A) The amount of payment made under this part for hospice care provided by (or under arrangements made by) a hospice program located in a region (as defined by the Secretary) for an accounting year may not exceed the 'cap amount' for the region for the year (computed under subparagraph (B)) multiplied by the number of medicare beneficiaries in the hospice program in that year (determined under subparagraph (C)).

"Cap amount."

"(B) For purposes of subparagraph (A), the 'cap amount' for a region for a year is computed as follows:

"(i) The Secretary, using records of the program under this title, shall identify individuals (or a representative sample of such individuals)—

"(I) who died during the base period (as defined in clause (v)),

"(II) with respect to whom the primary cause of death was cancer, and

"(III) who, during the six-month period preceding death, were provided benefits under this title.

"(ii) The Secretary shall determine a national average medicare per capita expenditure amount by (I) determining (or estimating) the amount of payments made under this title with respect to services provided to individuals identified in clause (i) during the six months before death, and (II) dividing such amount of payments by the number of such individuals.

"(iii) The Secretary, using the best available data, shall then compute a regional average medicare per capita expenditure amount for each region, by adjusting the national average medicare per capita expenditure amount (computed under clause (ii)) to reflect the relative difference between that region's average cost of delivering health care and the national average cost of delivering health care.

"Cap amount."

"(iv) The 'cap amount' for a region for an accounting year is 40 percent of the regional average determined under clause (iii) for that region, increased or decreased by the same percentage as the percentage increase or decrease, respectively, in the medical care expenditure category of the consumer price index for all urban consumers (U.S. city average), published by the

Bureau of Labor Statistics, from the fourth month of the base period to the fifth month of the accounting year.

"(v) For purposes of this subparagraph, the term 'base period' means the most recent period of 12 months (ending before the date proposed regulations are first issued to carry out this paragraph) for which the Secretary determines he has sufficient data to make the determinations required under clauses (i) through (iii). "Base period."

"(C) For purposes of subparagraph (A), the 'number of medicare beneficiaries' in a hospice program in an accounting year is equal to the number of individuals who have made an election under subsection (d) with respect to the hospice program and have been provided hospice care by (or under arrangements made by) the hospice program under this part in the accounting year, such number reduced to reflect the proportion of hospice care that each such individual was provided in a previous or subsequent accounting year or under a plan of care established by another hospice program.". "Number of medicare beneficiaries."

(3) Section 1816(e) of such Act is amended by adding at the end thereof the following new paragraph: 42 USC 1395h.

"(5) Notwithstanding any other provision of this title, the Secretary shall designate the agency or organization which has entered into an agreement under this section to perform functions under such an agreement with respect to each hospice program, except that with respect to a hospice program which is a subdivision of a provider of services (and such hospice program and provider of services are under common control) due regard shall be given to the agency or organization which performs the functions under this section for the provider of services.".

(d)(1) Section 1861(u) of the Social Security Act is amended by inserting "hospice program," after "home health agency,". 42 USC 1395x.

(2) Section 1861(w)(1) of such Act is amended by striking out "or home health agency" and by inserting in lieu thereof "home health agency, or hospice program".

(3) Section 1861 of such Act is further amended by adding at the end the following new subsection:

"HOSPICE CARE; HOSPICE PROGRAM

"(dd)(1) The term 'hospice care' means the following items and services provided to a terminally ill individual by, or by others under arrangements made by, a hospice program under a written plan (for providing such care to such individual) established and periodically reviewed by the individual's attending physician and by the medical director (and by the interdisciplinary group described in paragraph (2)(B)) of the program— "Hospice care."

"(A) nursing care provided by or under the supervision of a registered professional nurse,

"(B) physical or occupational therapy or speech-language pathology,

"(C) medical social services under the direction of a physician,

"(D)(i) services of a home health aide who has successfully completed a training program approved by the Secretary and (ii) homemaker services,

"(E) medical supplies (including drugs and biologicals) and the use of medical appliances, while under such a plan,

"(F) physicians' services,

"(G) short-term inpatient care (including both respite care and procedures necessary for pain control and acute and chronic symptom management) in an inpatient facility meeting such conditions as the Secretary determines to be appropriate to provide such care, but such respite care may be provided only on an intermittent, nonroutine, and occasional basis and may not be provided consecutively over longer than five days, and

"(H) counseling (including dietary counseling) with respect to care of the terminally ill individual and adjustment to his death.

The care and services described in subparagraphs (A) and (D) may be provided on a 24-hour, continuous basis only during periods of crisis (meeting criteria established by the Secretary) and only as necessary to maintain the terminally ill individual at home.

"Hospice program."

"(2) The term 'hospice program' means a public agency or private organization (or a subdivision thereof) which—

"(A)(i) is primarily engaged in providing the care and services described in paragraph (1) and makes such services available (as needed) on a 24-hour basis and which also provides bereavement counseling for the immediate family of terminally ill individuals,

"(ii) provides for such care and services in individuals' homes, on an outpatient basis, and on a short-term inpatient basis, directly or under arrangements made by the agency or organization, except that—

"(I) the agency or organization must routinely provide directly substantially all of each of the services described in subparagraphs (A), (C), (F), and (H) of paragraph (1), and

"(II) in the case of other services described in paragraph (1) which are not provided directly by the agency or organization, the agency or organization must maintain professional management responsibility for all such services furnished to an individual, regardless of the location or facility in which such services are furnished; and

"(iii) provides assurances satisfactory to the Secretary that the aggregate number of days of inpatient care described in paragraph (1)(G) provided in any 12-month period to individuals who have an election in effect under section 1812(d) with respect to that agency or organization does not exceed 20 percent of the aggregate number of days during that period on which such elections for such individuals are in effect;

42 USC 1395d.

"(B) has an interdisciplinary group of personnel which—

"(i) includes at least—

"(I) one physician (as defined in subsection (r)(1)),

"(II) one registered professional nurse, and

"(III) one social worker,

employed by the agency or organization, and also includes at least one pastoral or other counselor,

"(ii) provides (or supervises the provision of) the care and services described in paragraph (1), and

"(iii) establishes the policies governing the provision of such care and services;

"(C) maintains central clinical records on all patients;

"(D) does not discontinue the hospice care it provides with respect to a patient because of the inability of the patient to pay for such care;

"(E)(i) utilizes volunteers in its provision of care and services in accordance with standards set by the Secretary, which standards shall ensure a continuing level of effort to utilize such volunteers, and (ii) maintains records on the use of these volunteers and the cost savings and expansion of care and services achieved through the use of these volunteers;

"(F) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, is licensed pursuant to such law; and

"(G) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are provided care and services by such agency or organization.

"(3)(A) An individual is considered to be 'terminally ill' if the individual has a medical prognosis that the individual's life expectancy is 6 months or less. "Terminally ill."

"(B) The term 'attending physician' means, with respect to an individual, the physician (as defined in subsection (r)(1)), who may be employed by a hospice program, whom the individual identifies as having the most significant role in the determination and delivery of medical care to the individual at the time the individual makes an election to receive hospice care. "Attending physician."

"(4)(A) An entity which is certified as a provider of services other than a hospice program shall be considered, for purposes of certification as a hospice program, to have met any requirements under paragraph (2) which are also the same requirements for certification as such other type of provider. The Secretary shall coordinate surveys for determining certification under this title so as to provide, to the extent feasible, for simultaneous surveys of an entity which seeks to be certified as a hospice program and as a provider of services of another type.

"(B) Any entity which is certified as a hospice program and as a provider of another type shall have separate provider agreements under section 1866 and shall file separate cost reports with respect to costs incurred in providing hospice care and in providing other services and items under this title.". 42 USC 1395cc.

(e) Section 1813(a) of such Act is amended by adding at the end the following new paragraph: 42 USC 1395e.

"(4)(A) The amount payable for hospice care shall be reduced—

"(i) in the case of drugs and biologicals provided on an outpatient basis by (or under arrangements made by) the hospice program, by a coinsurance amount equal to an amount (not to exceed $5 per prescription) determined in accordance with a drug copayment schedule (established by the hospice program) which is related to, and approximates 5 percent of, the cost of the drug or biological to the program, and

"(ii) in the case of respite care provided by (or under arrangements made by) the hospice program, by a coinsurance amount equal to 5 percent of the amount estimated by the hospice program (in accordance with regulations of the Secretary) to be equal to the amount of payment under section 1814(i) to that program for respite care; *Ante*, p. 358.

except that the total of the coinsurance required under clause (ii) for an individual may not exceed for a hospice coinsurance period the inpatient hospital deductible applicable for the year in which the period began. For purposes of this subparagraph, the term 'hospice "Hospice coinsurance period."

coinsurance period' means, for an individual, a period of consecutive days beginning with the first day for which an election under section 1812(d) is in effect for the individual and ending with the close of the first period of 14 consecutive days on each of which such an election is not in effect for the individual.

Ante, p. 356.

"(B) During the period of an election by an individual under section 1812(d)(1), no copayments or deductibles other than those under subparagraph (A) shall apply with respect to services furnished to such individual which constitute hospice care, regardless of the setting in which such services are furnished.".

42 USC 1395y. (f) Section 1862(a) of the Social Security Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) which, except for items and services described in subparagraph (B) or (C), are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member,

"(B) in the case of items and services described in section 1861(s)(10), which are not reasonable and necessary for the prevention of illness, and

42 USC 1395x.

"(C) in the case of hospice care, which are not reasonable and necessary for the palliation or management of terminal illness;";

(2) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1)(C))" in paragraph (6) after "comfort items";

(3) by striking out "paragraph (1)" in paragraph (7) and inserting in lieu thereof "paragraph (1)(B)"; and

(4) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1)(C))" in paragraph (9) after "custodial care".

42 USC 1395y. (g)(1) Section 1862(f) of the Social Security Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)".

42 USC 1395z. (2) Section 1863 of the Social Security Act is amended by striking out "and (cc)(2)(I)" and inserting in lieu thereof "(cc)(2)(I), and (dd)(2)".

42 USC 1395aa. (3) Section 1864(a) of such Act is amended—

(A) by inserting "or whether an agency is a hospice program" in the first sentence after "home health agency,"; and

(B) by striking out "or home health agency" in the second sentence and inserting in lieu thereof "home health agency, or hospice program".

42 USC 1395bb. (4) Section 1865(a) of such Act is amended by striking out "or (o)" in the last sentence and inserting in lieu thereof "(o), or (dd)".

42 USC 1395cc. (5) Section 1866(b)(2)(A) of such Act is amended by striking out "or (a)(3)" and inserting in lieu thereof "(a)(3), or (a)(4)".

(6) Section 1866(b)(4)(A) of such Act is amended by inserting "or hospice care" after "home health services".

42 USC 1395c note. (h)(1)(A) Subject to subparagraph (B), the amendments made by this section apply to hospice care provided on or after November 1, 1983, and before October 1, 1986.

(B) An individual who on October 1, 1986, has an election under section 1812(d)(1) of the Social Security Act in effect for a period, is entitled to hospice care benefits after that date during the remainder of that period and any consecutive period to which the individual would have been entitled before such date.

(2) In order to provide for the timely implementation of the amendments made by this Act, the Secretary of Health and Human Services shall, not later than September 1, 1983, promulgate such final regulations as may be necessary to set forth— 42 USC 1395f note.

(A) a description of the care included in "hospice care" and the standards for qualification of a "hospice program", under section 1861(dd) of the Social Security Act, and *Ante*, p. 359.

(B) the standards for payment for hospice care under part A of title XVIII of such Act, pursuant to section 1814(i) of such Act. 42 USC 1395; *Ante*, p. 358.

(h)(1) Notwithstanding any provision of law which has the effect of restricting the time period of a hospice demonstration project in effect on July 15, 1982, pursuant to section 402(a) of the Social Security Amendments of 1967, the Secretary of Health and Human Services, upon request of the hospice involved, shall permit continuation of the project until November 1, 1983, or, if later, the date on which payments can first be made to any hospice program under the amendments made by this section. 42 USC 1395b-1 note. 81 Stat. 930.

(2) Prior to September 30, 1983, the Secretary shall submit to Congress a report on the effectiveness of demonstration projects referred to in paragraph (1), including an evaluation of the cost-effectiveness of hospice care, the reasonableness of the 40-percent cap amount for hospice care as provided in section 1814(i) of the Social Security Act (as added by this section), proposed methodology for determining such cap amount, proposed standards for requiring and measuring the maintenance of effort for utilizing volunteers as required under section 1861(dd) of such Act, an evaluation of physician reimbursement for services furnished as a part of hospice care and for services furnished to individuals receiving hospice care but which are not reimbursed as a part of the hospice care, and any proposed legislative changes in the hospice care provisions of title XVIII of such Act. Report to Congress. 42 USC 1395.

(i)(1) The Secretary of Health and Human Services shall conduct a study and, prior to January 1, 1986, report to the Congress on whether or not the reimbursement method and benefit structure (including copayments) for hospice care under title XVIII of the Social Security Act are fair and equitable and promote the most efficient provision of hospice care. Such report shall include the feasibility and advisability of providing for prospective reimbursement for hospice care, an evaluation of the inclusion of payment for outpatient drugs, an evaluation of the need to alter the method of reimbursement for nutritional, dietary, and bereavement counseling as hospice care, and any recommendations for legislative changes in the hospice care reimbursement or benefit structure. Study; report to Congress. 42 USC 1395f note.

(2) The Comptroller General shall monitor and evaluate the study and the preparation of the report under paragraph (1).

(j) The Secretary of Health and Human Services shall grant waivers of the limitations imposed by section 1814(i)(2) of the Social Security Act (relating to the cap amount), section 1861(dd)(1)(G) of such Act (relating to the limitations on the frequency and number of respite care days), and section 1861(dd)(2)(A)(iv) of such Act (relating to the aggregate limit on the number of days of inpatient care), as may be necessary to allow any institution which commenced operations as a hospice prior to January 1, 1975, to participate until October 1, 1986, in a viable manner as a hospice program under title XVIII of the Social Security Act. Waivers. 42 USC 1395f note.

COVERAGE OF EXTENDED CARE SERVICES WITHOUT REGARD TO THREE-DAY PRIOR HOSPITALIZATION REQUIREMENT

42 USC 1395d.

SEC. 123. (a) Section 1812(a)(2) of the Social Security Act is amended by inserting "(A)" after "(2)" and by inserting before the semicolon at the end the following: ", and (B) to the extent provided in subsection (f), extended care services that are not post-hospital extended care services".

(b) Section 1812 of such Act is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) The Secretary shall provide for coverage, under clause (B) of subsection (a)(2), of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, and under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this title and will not alter the acute care nature of the benefit described in subsection (a)(2).

"(2) The Secretary may provide—

"(A) for such limitations on the scope and extent of services described in subsection (a)(2)(B) and on the categories of individuals who may be eligible to receive such services, and

42 USC 1395f, 1395x; *Ante*, p. 331.

"(B) notwithstanding sections 1814, 1861(v), and 1886, for such restrictions and alternatives on the amounts and methods of payment for services described in such subsection,

as may be necessary to carry out paragraph (1).".

PROVISION TEMPORARILY HOLDING PART B PREMIUM AT CONSTANT PERCENTAGE OF COST

42 USC 1395r.

SEC. 124. (a)(1) Section 1839(c)(2) of the Social Security Act is amended by striking out "except as provided in subsection (d)" and inserting in lieu thereof "except as provided in subsections (d) and (g)".

(2) Section 1839(c)(3) of such Act is amended by inserting "(except as otherwise provided in subsection (g))" after "The monthly premium shall".

(b) Section 1839 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (c), the monthly premium for each individual enrolled under this part for each month after June 1983 and prior to July 1985 shall be an amount equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under subsection (c)(1) and applicable to such month.

"(2) Any increases in premium amounts taking effect prior to July 1985 by reason of paragraph (1) shall be taken into account for purposes of determining increases thereafter under subsection (c)(3).".

42 USC 1395w.

(c) Section 1844(a)(1) of such Act is amended by striking out "section 1839(c)(3)" each place it appears in subparagraphs (A)(i) and (B)(i) and inserting in lieu thereof in each instance "section 1839(c)(3) or 1839(g), as the case may be".

Supra.

SPECIAL ENROLLMENT PROVISIONS FOR MERCHANT SEAMEN

SEC. 125. (a) Any individual who— 42 USC 1395i-2 note.

(1) was entitled to medical, surgical, and dental treatment and hospitalization under section 322(a) of the Public Health Service Act (as in effect on September 30, 1981), including such entitlement on the basis of continuing medical care under 42 C.F.R. § 32.17, at any time during the period beginning on March 10, 1981, and ending on October 1, 1981, and 95 Stat. 603. 42 USC 249.

(2) as of September 30, 1981, was eligible under section 1818(a) or section 1836 of the Social Security Act to enroll in the insurance program established by part A or part B, respectively, of title XVIII of that Act (hereinafter in this section referred to as the "respective program"), 42 USC 1395i-2, 1395o. 42 USC 1395c, 1395j.

may enroll (if not otherwise enrolled) in the respective program during the period beginning on the first day of the first month beginning at least 20 days after the date of the enactment of this Act and ending on December 31, 1982.

(b)(1) The coverage period under the respective program of an individual who enrolls under subsection (a) shall begin—

(A) on the first day of the month following the month in which the individual enrolls, or

(B) on October 1, 1981, if the individual files a request for this subparagraph to apply and pays the monthly premiums for the months so covered.

(2) The coverage period under the respective program of an individual described in subsection (a) who enrolled in the respective program before the enrollment period described in that subsection shall be retroactively extended to October 1, 1981, if the individual files a request before January 1, 1983, for such retroactive extension and pays the monthly premiums for the months so covered.

(c)(1) For purposes of section 1839(d) of the Social Security Act with respect to the monthly premium for months after September 1981, if an individual described in subsection (a) has enrolled in the insurance program under part B of title XVIII of the Social Security Act at any time before the end of the enrollment period described in subsection (a), any month (before the end of that enrollment period) in which he was not enrolled in that program shall not be treated as a month in which he could have been enrolled in the program. 42 USC 1395r.

(2) Paragraph (1) shall not apply to an individual—

(A) if the individual has enrolled in the insurance program before March 10, 1981, unless the enrollment was terminated solely because the individual lost eligibility to be so enrolled, or

(B) unless the individual applies for the benefit of such paragraph before January 1, 1983.

(d)(1) The Secretary of Health and Human Services, beginning as soon as possible but not later than 30 days after the date of the enactment of this Act, shall provide for the dissemination of information—

(A) to unions and other associations representing or assisting seamen,

(B) to offices enrolling individuals under the respective programs, and

(C) to such other entities and in such a manner as will effectively inform individuals eligible for benefits under this section,

concerning the special benefits provided under this section.

(2) An individual may establish that the individual was entitled at a date to medical, surgical, and dental treatment and hospitalization under section 322(a) of the Public Health Service Act (as in effect before October 1, 1981) by providing—

95 Stat. 603.
42 USC 249.

(A) documentation relating to the status under which the individual was provided care in (or under arrangements with) a Public Health Service facility on that date,

(B) the individual's seamen's papers covering that date, or

(C) such other reasonable documentation as the Secretary may require.

PART III—MISCELLANEOUS PROVISIONS

EXTENDING MEDICARE PROFICIENCY EXAMINATION AUTHORITY

42 USC 1320a-2.

SEC. 126. Section 1123(a) of the Social Security Act is amended by striking out "December 31, 1981" and inserting in lieu thereof "September 30, 1983".

REGULATIONS REGARDING ACCESS TO BOOKS AND RECORDS

SEC. 127. Section 952 of the Omnibus Reconciliation Act of 1980 (94 Stat. 2646) is amended—

(1) by inserting "(a)" after "SEC. 952.", and

(2) by adding at the end the following new subsection:

42 USC 1395x note.

"(b) Unless the Secretary of Health and Human Services first publishes final regulations prescribing the criteria and procedures described in the last sentence of section 1861(v)(1)(I) of the Social Security Act by January 1, 1983, after providing a period of not less than 60 days for public comment on proposed regulations, the amendment made by subsection (a) shall only apply to books, documents, and records relating to services furnished (pursuant to contract or subcontract) on or after the date on which final regulations of the Secretary are first published.".

94 Stat. 2646.
42 USC 1395x.

TECHNICAL CORRECTIONS TO OMNIBUS BUDGET RECONCILIATION ACT OF 1981

42 USC 1395x.

SEC. 128. (a)(1) Section 1861(cc)(1) of the Social Security Act is amended, in the matter following subparagraph (H), by striking out "outpatient" and inserting in lieu thereof "inpatient".

42 USC 1395y.

(2) The second sentence of section 1862(b)(1) of such Act is amended by striking out "or plan".

95 Stat. 800.
42 USC 1395y.

(3) Section 1862(b)(2)(A) of such Act is amended by striking out "section 162(h)(2)" and inserting in lieu thereof "section 162(i)(2)".

(4) The first sentence of section 1862(b)(2)(B) of such Act is amended by inserting "furnished" before "to an individual".

42 USC 1395cc.

(5) Section 1866(b) of such Act is amended by striking out "(and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1))" in the matter preceding paragraph (1).

95 Stat. 785.
42 USC 1395uu.

(6) The second subsection (c) of section 1884 of such Act is redesignated as subsection (d).

26 USC 162.

(b) Section 162 of the Internal Revenue Code of 1954 is amended—

(1) by redesignating the subsection (i) (relating to cross reference), as redesignated by the Economic Recovery Tax Act of 1981 (Public Law 95-34), as subsection (j), and

95 Stat. 202.

(2) by redesignating the subsection (h) (relating to group health plans), as added by section 2146(b) of the Omnibus Budget Reconciliation Act of 1981, as subsection (i). 95 Stat. 800.

(c)(1) Section 2143(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "costs" and inserting in lieu thereof "cost". 95 Stat. 798. 42 USC 1395x note.

(2) Section 2203(f)(3) of such Act is amended by striking out "August 1982" and inserting in lieu thereof "August 1981". 95 Stat. 835.

(d)(1) Sections 1842(b)(3)(B)(ii)(II) and 1870(c) of the Social Security Act are each amended by striking out "1862" and inserting in lieu thereof "1862(a)". 42 USC 1395u, 1395gg.

(2) The final subparagraph (C) of section 1861(e) of such Act is amended by striking out "may (i)," and inserting in lieu thereof "(i) may". 42 USC 1395x.

(3) Section 1865(b) of such Act is amended by striking out "an institution" and "such institution" and inserting in lieu thereof "a hospital" and "the hospital", respectively. 42 USC 1395bb.

(4) Section 1866(a)(1)(B) of such Act is amended by inserting "of section 1862(a)" after "(1) or (9)". 42 USC 1395cc.

(e)(1) Any amendment to the Omnibus Budget Reconciliaton Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates. Effective date. 42 USC 1395x note. 95 Stat. 357.

(2) Except as otherwise provided in this section, any amendment to the Social Security Act or the Internal Revenue Code of 1954 made by this section (other than subsection (d)) shall be effective as if it had been originally included as a part of that provision of the Social Security Act or Internal Revenue Code of 1954 to which it relates, as such provision of such Act or Code was amended by the Omnibus Budget Reconciliaton Act of 1981. 42 USC 1305; 26 USC 1.

(3) The amendments made by subsection (d) shall take effect upon enactment. Effective date.

Subtitle B—Medicaid

COPAYMENTS BY MEDICAID RECIPIENTS

SEC. 131. (a) Section 1902(a)(14) of the Social Security Act is amended to read as follows: 42 USC 1396a.

"(14) provide that enrollment fees, premiums, or similar charges, and deductions, cost sharing, or similar charges, may be imposed only as provided in section 1916;".

(b) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section: 42 USC 1396.

"USE OF ENROLLMENT FEES, PREMIUMS, DEDUCTIONS, COST SHARING, AND SIMILAR CHARGES

"SEC. 1916. (a) The State plan shall provide that in the case of individuals described in section 1902(a)(10)(A) who are eligible under the plan— 42 USC 1396o. 95 Stat. 807.

"(1) no enrollment fee, premium, or similar charge will be imposed under the plan;

"(2) no deduction, cost sharing or similar charge will be imposed under the plan with respect to—

"(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

"(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

"(C) services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, or

"(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled; and

42 USC 1396d.

42 USC 1396b.

"(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of 'nominal' under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

"(b) The State plan shall provide that in the case of individuals other than those described in section 1902(a)(10)(A) who are eligible under the plan—

95 Stat. 807.

42 USC 1396a.

"(1) there may be imposed an enrollment fee, premium, or similar charge, which (as determined in accordance with standards prescribed by the Secretary) is related to the individual's income,

"(2) no deduction, cost sharing, or similar charge will be imposed under the plan with respect to—

"(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

"(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

"(C) services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility, or other medical institution, if such individual

is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, or

"(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or (at the option of the State) services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled; and 42 USC 1396d. 42 USC 1396b.

"(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of 'nominal' under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

"(c) The State plan shall require that no provider participating under the State plan may deny care or services to an individual eligible for such care or services under the plan on account of such individual's inability to pay a deduction, cost sharing, or similar charge. The requirements of this subparagraph shall not extinguish the liability of the individual to whom the care or services were furnished for payment of the deduction, cost sharing, or similar charge.

"(d) No deduction, cost sharing, or similar charge may be imposed under any waiver authority of the Secretary unless authorized under this section, unless such waiver is for a demonstration project which the Secretary finds after public notice and opportunity for comment—

"(1) will test a unique and previously untested use of copayments,

"(2) is limited to a period of not more than two years,

"(3) will provide benefits to recipients of medical assistance which can reasonably be expected to be equivalent to the risks to the recipients,

"(4) is based on a reasonable hypothesis which the demonstration is designed to test in a methodologically sound manner, including the use of control groups of similar recipients of medical assistance in the area, and

"(5) in which participation is voluntary, or in which provision is made for assumption of liability for preventable damage to the health of recipients of medical assistance resulting from involuntary participation.".

(b) Section 1902(a)(10) of such Act is amended in the matter following subparagraph (D)— 42 USC 1396a.

(1) by striking out "and" before "(III)"; and

(2) by inserting before the semicolon at the end thereof the following: "and (IV) the imposition of a deductible, cost sharing, or similar charge for any item or service furnished to an individual not eligible for the exemption under section 1916(a)(2) or (b)(2) shall not require the imposition of a deductible, cost sharing, or similar charge for the same item or service furnished to an individual who is eligible for such exemption".

Ante, p. 367.

Effective date.
42 USC 1396o note.

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1982.

42 USC 1396.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

MODIFICATIONS IN LIEN PROVISIONS

42 USC 1396a.

SEC. 132. (a) Section 1902(a)(18) of the Social Security Act is amended to read as follows:

Infra.

"(18) comply with the provisions of section 1917 with respect to liens, adjustments and recoveries of medical assistance correctly paid, and transfers of assets;".

(b) Title XIX of such Act is amended by adding after section 1916 (added by section 131 of this Act) the following new section:

"LIENS, ADJUSTMENTS AND RECOVERIES, AND TRANSFERS OF ASSETS

42 USC 1396p.

"SEC. 1917. (a)(1) No lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the State plan, except—

"(A) pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual, or

"(B) in the case of the real property of an individual—

"(i) who is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, and

"(ii) with respect to whom the State determines, after notice and opportunity for a hearing (in accordance with procedures established by the State), that he cannot reasonably be expected to be discharged from the medical institution and to return home,

except as provided in paragraph (2).

"(2) No lien may be imposed under paragraph (1)(B) on such individual's home if—

"(A) the spouse of such individual,

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to

42 USC 1381.

participate in such program) is blind or disabled as defined in section 1614, or 42 USC 1382c.

"(C) a sibling of such individual (who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution),

is lawfully residing in such home.

"(3) Any lien imposed with respect to an individual pursuant to paragraph (1)(B) shall dissolve upon that individual's discharge from the medical institution and return home.

"(b)(1) No adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan may be made, except—

"(A) in the case of an individual described in subsection (a)(1)(B), from his estate or upon sale of the property subject to a lien imposed on account of medical assistance paid on behalf of such individual, and

"(B) in the case of any other individual who was 65 years of age or older when he received such assistance, from his estate.

"(2) Any adjustment or recovery under paragraph (1) may be made only after the death of the individual's surviving spouse, if any, and only at a time—

"(A) when he has no surviving child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614; and 42 USC 1381.

"(B) in the case of a lien on an individual's home under subsection (a)(1)(B), when—

"(i) no sibling of the individual (who was residing in the individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution), and

"(ii) no son or daughter of the individual (who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the medical institution, and who establishes to the satisfaction of the State that he or she provided care to such individual which permitted such individual to reside at home rather than in an institution),

is lawfully residing in such home and has lawfully resided in such home on a continuous basis since the date of the individual's admission to the medical institution.

"(c)(1) Notwithstanding any other provision of this title, an individual who would otherwise be eligible for medical assistance under the State plan approved under this title may be denied such assistance if such individual would not be eligible for such medical assistance but for the fact that he disposed of resources for less than fair market value. If the State plan provides for the denial of such assistance by reason of such disposal of resources, the State plan shall specify a procedure for implementing such denial which, except as provided in paragraph (2), is not more restrictive than the procedure specified in section 1613(c) of this Act, and which may provide for a waiver of denial of such assistance in any instance where the State determines that such denial would work an undue hardship. 42 USC 1382b.

"(2)(A) In any case where the uncompensated value of disposed of resources exceeds $12,000, the State plan may provide for a period of ineligibility which exceeds 24 months. If a State plan provides for a period of ineligibility exceeding 24 months, such plan shall provide for the period of ineligibility to bear a reasonable relationship to such uncompensated value.

"(B)(i) In the case of any individual who is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, and, who, at any time during or after the 24-month period immediately prior to application for medical assistance under the State plan, disposed of a home for less than fair market value, the State plan (subject to clause (iii)) may provide for a period of ineligibility for medical assistance in accordance with clause (ii).

"(ii) If the State plan provides for a period of ineligibility under clause (i), such plan—

"(I) shall provide that such individual shall be ineligible for all medical assistance for a period of 24 months after the date on which he disposed of such home, except that, in the case where the uncompensated value of the home is less than the average amount payable under the State plan as medical assistance for 24 months of care in a skilled nursing facility, the period of ineligibility shall be such shorter time as bears a reasonable relationship (based upon the average amount payable under the State plan as medical assistance for care in a skilled nursing facility) to the uncompensated value of the home, and

"(II) may provide (at the option of the State) that, in the case where the uncompensated value of the home is more than the average amount payable under the State plan as medical assistance for 24 months of care in a skilled nursing facility, such individual shall be ineligible for all medical assistance for a period in excess of 24 months after the date on which he disposed of such home which bears a reasonable relationship (based upon the average amount payable under the State plan as medical assistance for care in a skilled nursing facility) to the uncompensated value of the home.

"(iii) An individual shall not be ineligible for medical assistance by reason of clause (ii) if—

"(I) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual cannot reasonably be expected to be discharged from the medical institution and to return to that home,

"(II) title to such home was transferred to the individual's spouse or child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614,

42 USC 1381.

42 USC 1382c.

"(III) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual intended to dispose of the home either at fair market value, or for other valuable consideration, or

"(IV) if the State determines that denial of eligibility would work an undue hardship.

"(3) In any case where an individual is ineligible for medical assistance under the State plan solely because of the applicability to such individual of the provisions of section 1613(c), the State plan may provide for the eligibility of such individual for medical assistance under the plan if such individual would be so eligible if the State plan requirements with respect to disposal of resources applicable under paragraphs (1) and (2) of this subsection were applied in lieu of the provisions of section 1613(c).". 42 USC 1382b.

(c) Section 1902 of such Act is amended by striking out subsection (j) thereof. 42 USC 1396a.

(d) The amendments made by this section shall become effective on the date of the enactment of this Act, but the provisions of section 1917(c)(2)(B) of the Social Security Act shall not apply with respect to a transfer of assets which took place prior to such date of enactment. Effective date. 42 USC 1396p note. *Ante*, p. 370.

LIMITATION OF FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS MEDICAL ASSISTANCE EXPENDITURES

SEC. 133. (a) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1396b.

"(u)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments for medical assistance (as defined in subparagraph (D)) to its total expenditures for medical assistance under the State plan approved under this title exceeds 0.03, for the period consisting of the third and fourth quarters of fiscal year 1983, or for any full fiscal year thereafter, then the Secretary shall make no payment for such period or fiscal year with respect to so much of such erroneous excess payments as exceeds such allowable error rate of 0.03.

"(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a period or fiscal year despite a good faith effort by such State. Waiver.

"(C) In estimating the amount to be paid to a State under subsection (d), the Secretary shall take into consideration the limitation on Federal financial participation imposed by subparagraph (A) and shall reduce the estimate he makes under subsection (d)(1), for purposes of payment to the State under subsection (d)(3), in light of any expected erroneous excess payments for medical assistance (estimated in accordance with such criteria, including sampling procedures, as he may prescribe and subject to subsequent adjustment, if necessary, under subsection (d)(2)).

"(D)(i) For purposes of this subsection, the term 'erroneous excess payments for medical assistance' means the total of— "Erroneous excess payments for medical assistance."

"(I) payments under the State plan with respect to ineligible individuals and families, and

"(II) overpayments on behalf of eligible individuals and families by reason of error in determining the amount of expenditures for medical care required of an individual or family as a condition of eligibility.

"(ii) In determining the amount of erroneous excess payments for medical assistance to an ineligible individual or family under clause (i)(I), if such ineligibility is the result of an error in determining the amount of the resources of such individual or family, the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment with respect to such individual or family, or (II) the

difference between the actual amount of such resources and the allowable resource level established under the State plan.

"(iii) In determining the amount of erroneous excess payments for medical assistance to an individual or family under clause (i)(II), the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment on behalf of the individual or family, or (II) the difference between the actual amount incurred for medical care by the individual or family and the amount which should have been incurred in order to establish eligibility for medical assistance.

"(E) For purposes of subparagraph (D), there shall be excluded, in determining both erroneous excess payments for medical assistance and total expenditures for medical assistance—

"(i) payments with respect to any individual whose eligibility therefor was determined exclusively by the Secretary under an agreement pursuant to section 1634 and such other classes of individuals as the Secretary may by regulation prescribe whose eligibility was determined in part under such an agreement; and

"(ii) payments made as the result of a technical error.

"(2) The State agency administering the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made (or expected, with respect to future periods specified by the Secretary) in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

"(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

"(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rates for a fiscal year, the amount that would otherwise be payable to such State under this title for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

"(4) This subsection shall not apply with respect to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, or American Samoa.".

Effective date. 42 USC 1396b note.

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

42 USC 1396b note. 42 USC 1396.

(c) No provision of law limiting Federal financial participation with respect to erroneous payments made by States under a State plan approved under title XIX of the Social Security Act (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations), other than the limitations contained in section 1903 of such Act, shall be effective with respect to payments to States under such section 1903 for quarters beginning on or after October 1, 1982, unless such provision of law is enacted after the date of the date of the enactment of this Act and expressly provides that such limitation is in addition to or in lieu of the limitations contained in section 1903 of the Social Security Act.

42 USC 1396b.

MEDICAID COVERAGE OF HOME CARE FOR CERTAIN DISABLED CHILDREN

SEC. 134. (a) Section 1902(e) of the Social Security Act is amended by adding at the end the following new paragraph: 42 USC 1396a.

"(3) At the option of the State, any individual who—

"(A) is 18 years of age or younger and qualifies as a disabled individual under section 1614(a); 42 USC 1382c.

"(B) with respect to whom there has been a determination by the State that—

"(i) the individual requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility,

"(ii) it is appropriate to provide such care for the individual outside such an institution, and

"(iii) the estimated amount which would be expended for medical assistance for the individual for such care outside an institution is not greater than the estimated amount which would otherwise be expended for medical assistance for the individual within an appropriate institution; and

"(C) if the individual were in a medical institution, would be eligible to have a supplemental security income (or State supplemental) payment made with respect to him under title XVI, 42 USC 1381. shall be deemed, for purposes of this title only, to be an individual with respect to whom a supplemental security income payment, or State supplemental payment, respectively, is being paid under title XVI.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1982. Effective date. 42 USC 1396a note.

SIX-MONTH MORATORIUM ON DEREGULATION OF SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 135. The Secretary of Health and Human Services may not promulgate any change in the regulations prescribed under—

(1) subpart K of part 405 of subchapter B (relating to medicare conditions of participation of skilled nursing facilities),

(2) so much of subpart S of part 405 of subchapter B (relating to certification procedure for providers) as relates to certification of skilled nursing facilities, and

(3) subparts C, D, and E of part 442 of subchapter C (relating to medicaid certification and requirements for skilled nursing and intermediate care facilities),

of chapter IV of title 42 of the Code of Federal Regulations until the first day of the seventh calendar month beginning after the date of the enactment of this Act unless ordered to do so by a court of competent jurisdiction.

MEDICAID PROGRAM IN AMERICAN SAMOA

SEC. 136. (a) Section 1101(a)(1) of the Social Security Act is amended by inserting "and American Samoa" after "Such term when used in title XIX also includes the Northern Mariana Islands". 42 USC 1301.

(b) Section 1108(c) of such Act is amended— 42 USC 1308.

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following:

"(5) American Samoa shall not exceed $750,000.".

42 USC 1396d. (c) Section 1905(b)(2) of such Act is amended by striking out "and the Northern Mariana Islands" and inserting in lieu thereof "the Northern Mariana Islands, and American Samoa".

42 USC 1396a. (d) Section 1902 of such Act (as amended by section 132(c) of this Act) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program in American Samoa, other than a waiver of the Federal medical assistance percentage, 42 USC 1308. the limitation in section 1108(c), or the requirement that payment may be made for medical assistance only with respect to amounts expended by American Samoa for care and services described in 42 USC 1396d. paragraphs (1) through (18) of section 1905(a).".

Effective date. 42 USC 1301 note. (e) The amendments made by this section shall become effective on October 1, 1982.

TECHNICAL CORRECTIONS FROM OMNIBUS BUDGET RECONCILIATION ACT OF 1981

95 Stat. 803. 42 USC 1396b. SEC. 137. (a)(1) Section 2161(b) of the Ominbus Budget Reconciliation Act of 1981 is amended by striking out "Section 1902" and inserting in lieu thereof "Section 1903".

(2) Paragraphs (1) and (2) of section 2161(c) of such Act are each amended by striking out "section 1902" and inserting in lieu thereof in each instance "section 1903".

95 Stat. 807. 42 USC 1396a. (3) Section 2171(a)(3) of such Act is amended by striking out "by striking out paragraph (C)" and inserting in lieu thereof "by striking out '(C) if medical assistance' and all that follows through the semicolon preceding 'except that' ".

95 Stat. 815. 42 USC 603 note. (4) Section 2181(b) of such Act is amended by inserting before the period at the end thereof the following: ", except that, in the case of 42 USC 1396. a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order to incorporate the provisions required to be included by this section into such State plan, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to include the provisions required to be included in such State plan by subsection (a)(2) of this section before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act, but the requirements previously set forth in 42 USC 603. paragraphs (1) through (3) of section 403(g) of the Social Security Act (prior to its repeal by this section) shall apply under title XIX of such Act to such State on and after October 1, 1981, whether or not the provisions required to be included by this section in the State plan under title XIX have been incorporated into such State plan".

95 Stat. 826. 42 USC 1320a-1. (5) Section 2193(c)(3)(B) of such Act is amended by striking out "or X' " and inserting in lieu thereof "or XIX' ".

95 Stat. 819. 42 USC 701. (b)(1) Section 501(b)(1)(D) of the Social Security Act is amended by striking out "title IV" and inserting in lieu thereof "title VI".

(2) Section 501(b)(2) of such Act is amended by striking out "section 624 of the Economic Opportunity Act of 1964" and inserting in lieu thereof "section 673(2) of the Omnibus Budget Reconciliation Act of 1981".

(3) Section 505(2)(B) of such Act is amended by striking out "502(b)(1)" and inserting in lieu thereof "501(b)(1)". 95 Stat. 822. 42 USC 705.

(4) Section 505(2)(D) of such Act is amended by striking out "the State imposes any charges" and inserting in lieu thereof "any charges are imposed".

(5) Section 1134(4) of such Act is amended by striking out "scale" and inserting in lieu thereof "sale". 42 USC 1320b-4.

(6) The heading of title XVI of such Act as such title applies in the case of Puerto Rico, Guam, and the Virgin Islands is amended by striking out ", OR FOR SUCH AID FOR THE AGED". 42 USC 1381.

(7) Section 1902(a)(10)(A) of such Act is amended to read as follows: 95 Stat. 807. 42 USC 1396a.

"(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a), to— 42 USC 1396d.

"(i) all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including pregnant women deemed by the State to be receiving such aid as authorized in section 406(g) and individuals considered by the State to be receiving such aid as authorized under section 414(g)), or with respect to whom supplemental security income benefits are being paid under title XVI; and 42 USC 606.

"(ii) at the option of the State, to any group or groups of individuals described in section 1905(a) (or, in the case of individuals described in section 1905(a)(i), to any reasonable categories of such individuals) who are not individuals described in clause (i) of this subparagraph but— 42 USC 1396d.

"(I) who meet the income and resources requirements of the appropriate State plan described in clause (i) or the supplemental security income program (as the case may be),

"(II) who would meet the income and resources requirements of the appropriate State plan described in clause (i) if their work-related child care costs were paid from their earnings rather than by a State agency as a service expenditure,

"(III) who would be eligible to receive aid under the appropriate State plan described in clause (i) if coverage under such plan was as broad as allowed under Federal law,

"(IV) with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i), supplemental security income benefits under title XVI, or a State supplementary payment;

"(V) who are in a medical institution, who meet the resource requirements of the appropriate State plan described in clause (i) or the supplemental security income program, and whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C), or 42 USC 1396b.

"(VI) who would be eligible under the State plan under this title if they were in a medical institution, with respect to whom there has been a determination

95 Stat. 809.
42 USC 1396n.

that but for the provision of home or community-based services described in section 1915(c) they would require the level of care provided in a hospital, skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan, and who will receive home or community-based services pursuant to a waiver granted by the Secretary under section 1915(c);".

95 Stat. 807.
42 USC 1396a.

(8) Section 1902(a)(10)(C)(i) of such Act is amended—

(A) by striking out "and (II)" and inserting in lieu thereof ", (II)"; and

(B) by inserting before the semicolon at the end thereof ", and (III) the single standard to be employed in determining income and resource eligibility for all such groups, and the methodology to be employed in determining such eligibility, which shall be the same methodology which would be employed under the supplemental security income program in the case of groups consisting of aged, blind, or disabled individuals in a State in which such program is in effect, and which shall be the same methodology which would be employed under the appropriate State plan (described in subparagraph (A)(i)) to which such group is most closely categorically related in the case of other groups".

95 Stat. 807.
42 USC 1396a.

(9) Section 1902(a)(10)(C)(ii)(I) of such Act is amended by striking out "described in section 1905(a)(i)" and inserting in lieu thereof "under the age of 18 who (but for income and resources) would be eligible for medical assistance as an individual described in subparagraph (A)(i)".

42 USC 1396a.

(10) Section 1902(b) of such Act is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

42 USC 1396b.

(11) Section 1903(g)(1) of such Act is amended by inserting "or which is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)" after "as defined in section 1876".

95 Stat. 816.
42 USC 1396b.

(12) Section 1903(g)(1)(A) of such Act is amended by striking out "intermediate care facility services described in section 1905(d)" and inserting in lieu thereof "intermediate care facility services provided in an institution for the mentally retarded".

(13) Section 1903(k) of such Act is amended by striking out "section 1876" and inserting in lieu thereof "subsection (m) of this section".

95 Stat. 813.
42 USC 1396b.

(14) Section 1903(m)(2)(A) of such Act is amended—

(A) by striking out "and" before "(II)" in clause (iv) and inserting in lieu thereof "or"; and

(B) by striking out "unforseen" in clause (vii) and inserting in lieu thereof "unforeseen".

95 Stat. 803.
42 USC 1396b.

(15) Section 1903(s) of such Act is amended—

(A) in paragraph (1)(A), by striking out "made before fiscal year 1981" and inserting in lieu thereof "made before fiscal year 1982";

(B) in paragraph (1)(A), by striking out "without regard to payments under subsection (t) and" and inserting in lieu thereof "without regard to payments under subsections (a)(6) and (t), without regard to payments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service, and";

(C) in paragraph (1)(C), by inserting "a program in operation under" before "a plan approved under this title";

(D) in paragraph (3)(D)—

(i) by striking out "determines that" and inserting in lieu thereof "must determine that";

(ii) by striking out "most recent calendar year" and inserting in lieu thereof "most recent year (which shall consist of a 12-month period determined by the Secretary for this purpose)";

(iii) by striking out "2 or 3 calendar year period" and inserting in lieu thereof "2- or 3-year period"; and

(iv) by striking out "calendar" each place it appears;

(E) in paragraph (4)(B), by inserting "and paragraph (3)(D)" after "subparagraph (A)"; and

(F) in paragraph (5)(A)(i), by inserting "(including amounts saved, to the extent such amounts can be documented to the satisfaction of the Secretary, by reason of the suspension or termination of a provider or other person for fraud or abuse, but only during the period of such suspension or termination or, if shorter, the 1-year period beginning on the date of such termination or suspension)" after "recovered or diverted".

(16) Section 1903(t) of such Act (as added by section 2161(b) of the Omnibus Budget Reconciliation Act of 1981 as amended by subsection (a) of this section) is amended— 95 Stat. 803. 42 USC 1396b.

(A) in paragraphs (1)(A) and (2)(A), by striking out "other than interest paid under subsection (d)(5)" each place it appears and inserting in lieu thereof in each instance "other than payments under subsection (a)(6), interest paid under subsection (d)(5), and payments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service";

(B) in paragraph (1)(B), by striking out "between September 1982 and September 1983" and inserting in lieu thereof "for the 12-month period ending on September 30, 1983";

(C) in paragraph (1)(C), by striking out "between September 1982 and September 1984" and inserting in lieu thereof "for the 24-month period ending on September 30, 1984";

(D) in subparagraphs (B) and (C) of paragraph (1), by striking out "consumer price index for all urban consumers (published by the Bureau of Labor Statistics)" each place it appears and inserting in lieu thereof in each instance "Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics"; and

(E) by amending paragraph (3) to read as follows:

"(3) Only for the purpose of computing under this subsection the Federal share of expenditures for a State for fiscal years 1982, 1983, and 1984 (in the case of the payment which may be made for the first quarter of fiscal years 1983, 1984, and 1985, respectively), the Federal medical assistance percentage for fiscal years 1982, 1983, and 1984 shall be the Federal medical assistance percentage for States in effect for fiscal year 1981, disregarding any change in such percentage after fiscal year 1981.".

(17) Section 1905(a)(i) of such Act is amended by striking out "or any reasonable category of such individuals,". 95 Stat. 808. 42 USC 1396d.

(18) Section 1905(a) of such Act is amended by striking out "or" at the end of clause (vi), inserting "or" at the end of clause (vii), and inserting after clause (vii) the following:

"(viii) pregnant women,".

95 Stat. 809. 42 USC 1396n. (19)(A) Section 1915(b) of such Act is amended by striking out "and section 1903(m)".

42 USC 1396n note. (B) The amendment made by subparagraph (A) shall not apply with respect to any waiver if such waiver was granted, and the arrangement covered by the waiver was in place, prior to August 10, 1982.

(20) Section 1915(b)(1) of such Act is amended—

(A) by inserting "primary care" before "case-management system"; and

(B) by striking out "primary care services" and inserting in lieu thereof "medical care services".

(21) Section 1915(c)(1) of such Act is amended by inserting "payment for part or all of the cost of" after "may include as 'medical assistance' under such plan".

(22) Section 1915(c)(2)(B) of such Act is amended to read as follows:

"(B) the State will provide, with respect to individuals who—

"(i) are entitled to medical assistance for skilled nursing facility or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based care under such waiver,

for an evaluation of the need for such services;".

(23) Section 1915(c)(3) of such Act is amended—

(A) by striking out "subsection (a)(1)" and inserting in lieu thereof "section 1902(a)(1)"; and

(B) by striking out "subsection (a)(10) of section 1902" and inserting in lieu thereof "section 1902(a)(10)".

(24) Section 1915(c)(4) of such Act is amended by striking out "this section" and inserting in lieu thereof "this subsection".

(25) Section 1915(f) of such Act is amended by inserting "approval of" before "a proposed State plan".

95 Stat. 789. 42 USC 1320a-7a. (26) Subsection (a) of section 1128A of such Act is amended by striking out all that precedes "shall be subject" and inserting in lieu thereof the following:

"(a) Any person (including an organization, agency, or other entity) that—

"(1) presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (h)(1)), a claim (as defined in subsection (h)(2)) that the Secretary determines is for a medical or other item or service—

"(A) that the person knows or has reason to know was not provided as claimed, or

"(B) payment for which may not be made under the program under which such claim was made, pursuant to a determination by the Secretary under section 1128, 1160(b), or 1862(d), or pursuant to a determination by the Secretary under section 1866(b)(2) with respect to which the Secretary has initiated termination proceedings; or

42 USC 1320a-7, 1320c-9, 1395y.

42 USC 1395cc.

"(2) presents or causes to be presented to any person a request for payment which is in violation of the terms of (A) an assignment under section 1842(b)(3)(B)(ii), or (B) an agreement with a State agency not to charge a person for an item or service in excess of the amount permitted to be charged,".

42 USC 1395u.

(27) Section 1903(s)(5)(B) of such Act is amended by inserting "or quarters" after "carried forward to the following quarter". 95 Stat. 803. 42 USC 1396b.

(c)(1) Section 914(b)(2)(A) of the Omnibus Reconciliation Act of 1980 is amended by striking out "medical assistance" and all that follows and inserting in lieu thereof "cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title XIX of the Social Security Act.". 42 USC 1396a note. 42 USC 1396.

(2) Section 914(c)(2) of the Omnibus Reconciliation Act of 1980 is amended by striking out "services provided" and all that follows and inserting in lieu thereof "cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title V of the Social Security Act.". 42 USC 705 note. 42 USC 701.

(d)(1) Except as otherwise provided in this section, any amendment to the Omnibus Budget Reconciliation Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates. 42 USC 1396a note. 95 Stat. 357.

(2) Except as otherwise provided in this section, any amendment to the Social Security Act made by the preceding provisions of this section shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of the Social Security Act was amended by the Omnibus Budget Reconciliation Act of 1981. 42 USC 1305.

(e) Section 1902(a) of the Social Security Act is amended in the matter following paragraph (44) by inserting ", (26)" after "(9)(A)". 95 Stat. 815. 42 USC 1396a.

(f) Section 1905(h)(1)(C) of the Social Security Act is amended by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively, and by redesignating clauses (A) and (B) as clauses (i) and (ii) respectively. 42 USC 1396d.

(g) Effective October 1, 1982, section 1903(f)(3) of the Social Security Act is amended by striking out "(without regard to section 408)". 42 USC 1396b.

Subtitle C—Utilization and Quality Control Peer Review

Peer Review Improvement Act of 1982.

SHORT TITLE OF SUBTITLE

SEC. 141. This subtitle may be cited as the "Peer Review Improvement Act of 1982". 42 USC 1305 note.

REQUIREMENT FOR SECRETARY TO ENTER INTO CONTRACTS

SEC. 142. Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1395y.

"(g) The Secretary shall, in making the determinations under paragraphs (1) and (9) of subsection (a), and for the purposes of promoting the effective, efficient, and economical delivery of health care services, and of promoting the quality of services of the type for which payment may be made under this title, enter into contracts with utilization and quality control peer review organizations pursuant to part B of title XI of this Act.". 42 USC 1320c.

ESTABLISHMENT OF UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

SEC. 143. Part B of title XI of the Social Security Act is amended to read as follows:

"PART B—PEER REVIEW OF THE UTILIZATION AND QUALITY OF HEALTH CARE SERVICES

"PURPOSE

42 USC 1320c.

"SEC. 1151. The purpose of this part is to establish the contracting process which the Secretary must follow pursuant to the requirements of section 1862(g) of this Act, including the definition of the utilization and quality control peer review organizations with which the Secretary shall contract, the functions such peer review organizations are to perform, the confidentiality of medical records, and related administrative matters to facilitate the carrying out of the purposes of this part.

42 USC 1395y.

"DEFINITION OF UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATION

42 USC 1320c-1

"SEC. 1152. The term 'utilization and quality control peer review organization' means an entity which—

"(1)(A) is composed of a substantial number of the licensed doctors of medicine and osteopathy engaged in the practice of medicine or surgery in the area and who are representative of the practicing physicians in the area, designated by the Secretary under section 1153, with respect to which the entity shall perform services under this part, or (B) has available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area to assure that adequate peer review of the services provided by the various medical specialties and subspecialties can be assured; and

"(2) is able, in the judgment of the Secretary, to perform review functions required under section 1154 in a manner consistent with the efficient and effective administration of this part and to perform reviews of the pattern of quality of care in an area of medical practice where actual performance is measured against objective criteria which define acceptable and adequate practice.

"CONTRACTS WITH UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATIONS

42 USC 1320c-2.

"SEC. 1153. (a)(1) The Secretary shall establish throughout the United States geographic areas with respect to which contracts under this part will be made. In establishing such areas, the Secretary shall use the same areas as established under section 1152 of this Act as in effect immediately prior to the date of the enactment of the Peer Review Improvement Act of 1982, but subject to the provisions of paragraph (2).

"(2) As soon as practicable after the date of the enactment of the Peer Review Improvement Act of 1982, the Secretary shall consoli-

date such geographic areas, taking into account the following criteria:

"(A) Each State shall generally be designated as a geographic area for purposes of paragraph (1).

"(B) The Secretary shall establish local or regional areas rather than State areas only where the volume of review activity or other relevant factors (as determined by the Secretary) warrant such an establishment, and the Secretary determines that review activity can be carried out with equal or greater efficiency by establishing such local or regional areas. In applying this subparagraph the Secretary shall take into account the number of hospital admissions within each State for which payment may be made under title XVIII or a State plan approved under title XIX, with any State having fewer than 180,000 such admissions annually being established as a single statewide area, and no local or regional area being established which has fewer than 60,000 total hospital admissions (including public and private pay patients) under review annually, unless the Secretary determines that other relevant factors warrant otherwise.

42 USC 1395.
42 USC 1396.

"(C) No local or regional area shall be designated which is not a self-contained medical service area, having a full spectrum of services, including medical specialists' services.

"(b)(1) The Secretary shall enter into a contract with a utilization and quality control peer review organization for each area established under subsection (a) if a qualified organization is available in such area and such organization and the Secretary have negotiated a proposed contract which the Secretary determines will be carried out by such organization in a manner consistent with the efficient and effective administration of this part. If more than one such qualified organization meets the requirements of the preceding sentence, priority shall be given to any such organization which is described in section 1152(1)(A).

"(2)(A) During the first twelve months in which the Secretary is entering into contracts under this section, the Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), an entity which directly or indirectly makes payments to any practitioner or provider whose health care services are reviewed by such entity or would be reviewed by such entity if it entered into a contract with the Secretary under this part.

"(B) If, after the expiration of the twelve-month period referred to in subparagraph (A), the Secretary determines that there is no other entity available for an area with which the Secretary can enter into a contract under this part, the Secretary may then enter into a contract under this part with an entity described in subparagraph (A) for such area if such entity otherwise meets the requirements of this part.

"(3) The Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), a health care facility, or association of such facilities, within the area served by such entity or which would be served by such entity if it entered into a contract with the Secretary under this part.

"(c) Each contract with an organization under this section shall provide that—

"(1) the organization shall perform the functions set forth in section 1154(a), or may subcontract for the performance of all or some of such functions (and for purposes of paragraphs (2) and (3) of subsection (b), a subcontract under this paragraph shall not constitute an affiliation with the subcontractor);

"(2) the Secretary shall have the right to evaluate the quality and effectiveness of the organization in carrying out the functions specified in the contract;

"(3) the contract shall be for an initial term of two years and shall be renewable on a biennial basis thereafter;

"(4) if the Secretary intends not to renew a contract, he shall notify the organization of his decision at least 90 days prior to the expiration of the contract term, and shall provide the organization an opportunity to present data, interpretations of data, and other information pertinent to its performance under the contract, which shall be reviewed in a timely manner by the Secretary;

"(5) the organization may terminate the contract upon 90 days notice to the Secretary;

"(6) the Secretary may terminate the contract prior to the expiration of the contract term upon 90 days notice to the organization if the Secretary determines that—

"(A) the organization does not substantially meet the requirements of section 1152; or

"(B) the organization has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part, but only after such organization has had an opportunity to submit data and have such data reviewed by the panel established under subsection (d);

"(7) the Secretary shall include in the contract negotiated objectives against which the organization's performance will be judged, and negotiated specifications for use of regional norms, or modifications thereof based on national norms, for performing review functions under the contract; and

"(8) reimbursement shall be made to the organization in accordance with the terms of the contract.

"(d)(1) Prior to making any termination under subsection (c)(5)(B), the Secretary must provide the organization with an opportunity to provide data, interpretations of data, and other information pertinent to its performance under the contract. Such data and other information shall be reviewed in a timely manner by a panel appointed by the Secretary, and the panel shall submit a report of its findings to the Secretary in a timely manner. The Secretary shall make a copy of the report available to the organization.

"(2) The Secretary may accept or not accept the findings of the panel. After the panel has submitted a report with respect to an organization, the Secretary may, with the concurrence of the organization, amend the contract to modify the scope of the functions to be carried out by the organization, or in any other manner. The Secretary may terminate a contract under the authority of subsection (c)(5)(C) upon 90 days notice after the panel has submitted a report, or earlier if the organization so agrees.

"(3) A panel appointed by the Secretary under this subsection shall consist of not more than five individuals, each of whom shall be a member of a utilization and quality control peer review organization having a contract with the Secretary under this part. While

serving on such panel individuals shall be paid at a per diem rate not to exceed the current per diem equivalent at the time that service on the panel is rendered for grade GS-18 under section 5332 of title 5, United States Code. Appointments shall be made without regard to title 5, United States Code.

"(e) Contracting authority of the Secretary under this section may be carried out without regard to any provision of law relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the purposes of this part. The Secretary may use different contracting methods with respect to different geographical areas.

"(f) Any determination by the Secretary to terminate or not to renew a contract under this section shall not be subject to judicial review.

"FUNCTIONS OF PEER REVIEW ORGANIZATIONS

"SEC. 1154. (a) Any utilization and quality control peer review organization entering into a contract with the Secretary under this part must perform the following functions: 42 USC 1320c-3.

"(1) The organization shall review some or all of the professional activities in the area, subject to the terms of the contract, of physicians and other health care practitioners and institutional and noninstitutional providers of health care services in the provision of health care services and items for which payment may be made (in whole or in part) under title XVIII for the purpose of determining whether— 42 USC 1395.

"(A) such services and items are or were reasonable and medically necessary or otherwise allowable under section 1862(a)(1);

"(B) the quality of such services meets professionally recognized standards of health care; and

"(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided more economically on an outpatient basis or in an inpatient health care facility of a different type.

"(2) The organization shall determine, on the basis of the review carried out under subparagraphs (A) and (C) of paragraph (1), whether payment shall be made for services under title XVIII. Such determination shall constitute the conclusive determination on those issues for purposes of payment under title XVIII, except that payment may be made if—

"(A) such payment is allowed by reason of section 1879;

"(B) in the case of inpatient hospital services or posthospital extended care services, the peer review organization determines that additional time is required in order to arrange for postdischarge care, but payment may be continued under this subparagraph for not more than two days, but only in the case where the provider of such services did not know and could not reasonably have been expected to know (as determined under section 1879) that payment would not otherwise be made for such services under title XVIII prior to notification by the organization under paragraph (3); 42 USC 1395pp.

"(C) such determination is changed as the result of any hearing or review of the determination under section 1155; or

"(D) such payment is authorized under section 1861(v)(1)(G).

42 USC 1395x.

"(3) Whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such practitioner or provider, such patient, and the agency or organization responsible for the payment of claims under title XVIII of this Act. In the case of practitioners and providers of services, the organization shall provide an opportunity for discussion and review of the determination.

"(4) The organization shall, after consultation with the Secretary, determine the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order to most effectively carry out the purposes of this part, exercise review authority under the contract. The organization shall notify the Secretary periodically with respect to such determinations.

"(5) The organization shall consult with nurses and other professional health care practitioners (other than physicians described in section 1861(r)(1)) and with representatives of institutional and noninstitutional providers of health care services, with respect to the organization's responsibility for the review under paragraph (1) of the professional activities of such practitioners and providers.

"(6) The organization shall, consistent with the provisions of its contract under this part, apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice within the geographic area served by the organization as principal points of evaluation and review, taking into consideration national norms where appropriate. Such norms with respect to treatment for particular illnesses or health conditions shall include—

"(A) the types and extent of the health care services which, taking into account differing, but acceptable, modes of treatment and methods of organizing and delivering care, are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care; and

"(B) the type of health care facility which is considered, consistent with such standards, to be the type in which health care services which are medically appropriate for such illness or condition can most economically be provided.

"(7) The organization, to the extent necessary and appropriate to the performance of the contract, shall—

"(A) make arrangements to utilize the services of persons who are practitioners of, or specialists in, the various areas of medicine (including dentistry), or other types of health care, which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;

"(B) undertake such professional inquiries either before or after, or both before and after, the provision of services with respect to which such organization has a responsibility for review which in the judgment of such organization will facilitate its activities;

"(C) examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1); and

"(D) inspect the facilities in which care is rendered or services are provided (which are located in such area) of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1).

"(8) The organization shall perform such duties and functions and assume such responsibilities and comply with such other requirements as may be required by this part or under regulations of the Secretary promulgated to carry out the provisions of this part.

"(9) The organization shall collect such information relevant to its functions, and keep and maintain such records, in such form as the Secretary may require to carry out the purposes of this part, and shall permit access to and use of any such information and records as the Secretary may require for such purposes, subject to the provisions of section 1160. *Post*, p. 391.

"(10) The organization shall coordinate activities, including information exchanges, which are consistent with economical and efficient operation of programs among appropriate public and private agencies or organizations including—

"(A) agencies under contract pursuant to sections 1816 and 1842 of this Act; 42 USC 1395h, 1395u.

"(B) other peer review organizations having contracts under this part; and

"(C) other public or private review organizations as may be appropriate.

"(11) The organization shall make available its facilities and resources for contracting with private and public entities paying for health care in its area for review, as feasible and appropriate, of services reimbursed by such entities.

"(b)(1) No physician shall be permitted to review—

"(A) health care services provided to a patient if he was directly responsible for providing such services; or

"(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, a significant financial interest in such institution, organization, or agency.

"(2) For purposes of this subsection, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

"(c) No utilization and quality control peer review organization shall utilize the services of any individual who is not a duly licensed doctor of medicine, osteopathy, or dentistry to make final determinations of denial decisions in accordance with its duties and functions under this part with respect to the professional conduct of any other duly licensed doctor of medicine, osteopathy, or dentistry, or

any act performed by any duly licensed doctor of medicine, osteopathy, or dentistry in the exercise of his profession.

"RIGHT TO HEARING AND JUDICIAL REVIEW

42 USC 1320c-4.
42 USC 1395.

"SEC. 1155. Any beneficiary who is entitled to benefits under title XVIII, and any practitioner or provider, who is dissatisfied with a determination made by a contracting peer review organization in conducting its review responsibilities under this part, shall be entitled to a reconsideration of such determination by the reviewing organization. Where the reconsideration is adverse to the beneficiary and where the matter in controversy is $200 or more, such beneficiary shall be entitled to a hearing by the Secretary (to the same extent as is provided in section 205(b)), and, where the amount in controversy is $2,000 or more, to judicial review of the Secretary's final decision.

42 USC 405.

"OBLIGATIONS OF HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES; SANCTIONS AND PENALTIES; HEARINGS AND REVIEW

42 USC 1320c-5.

"SEC. 1156. (a) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under title XVIII, to assure, to the extent of his authority that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under such title—

"(1) will be provided economically and only when, and to the extent, medically necessary;

"(2) will be of a quality which meets professionally recognized standards of health care; and

"(3) will be supported by evidence of medical necessity and quality in such form and fashion and at such time as may reasonably be required by a reviewing peer review organization in the exercise of its duties and responsibilities.

"(b)(1) If after reasonable notice and opportunity for discussion with the practitioner or person concerned, any organization having a contract with the Secretary under this part determines that such practitioner or person has—

"(A) failed in a substantial number of cases substantially to comply with any obligation imposed on him under subsection (a), or

"(B) grossly and flagrantly violated any such obligation in one or more instances,

such organization shall submit a report and recommendations to the Secretary. If the Secretary agrees with such determination, and determines that such practitioner or person, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under title XVIII, has demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, the Secretary (in addition to any other sanction provided under law) may exclude (permanently or for such period as the Secretary may prescribe) such practitioner or person from eligibility to provide such services on a reimbursable basis. If the Secretary fails to act upon the recommendations submitted to him by such organization within 120

days after such submission, such practitioner or person shall be excluded from eligibility to provide services on a reimbursable basis until such time as the Secretary determines otherwise.

"(2) A determination made by the Secretary under this subsection to exclude a practitioner or person shall be effective at such time and upon such reasonable notice to the public and to the practitioner or person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of institutional health care services such determination shall be effective in the manner provided in title XVIII with respect to terminations of provider agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

"(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or person to provide such health care services on a reimbursable basis) such practitioner or person pays to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or person of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services so provided. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the practitioner or person from whom such amount is claimed.

"(4) Any practitioner or person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). 42 USC 405.

"(c) It shall be the duty of each utilization and quality control peer review organization to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or person (referred to in subsection (a)) providing health care services in such area shall comply with all obligations imposed on him under subsection (a).

"LIMITATION ON LIABILITY

"SEC. 1157. (a) Notwithstanding any other provision of law, no person providing information to any organization having a contract with the Secretary under this part shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) unless— 42 USC 1320c-6.

"(1) such information is unrelated to the performance of the contract of such organization; or

"(2) such information is false and the person providing it knew, or had reason to believe, that such information was false.

"(b) No person who is employed by, or who has a fiduciary relationship with, any such organization or who furnishes professional services to such organization, shall be held by reason of the performance by him of any duty, function, or activity required or authorized pursuant to this part or to a valid contract entered into under this part, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

"(c) No doctor of medicine or osteopathy and no provider (including directors, trustees, employees, or officials thereof) of health care services shall be civilly liable to any person under any law of the United States or of any State (or political subdivision thereof) on account of any action taken by him in compliance with or reliance upon professionally developed norms of care and treatment applied by an organization under contract pursuant to section 1153 operating in the area where such doctor of medicine or osteopathy or provider took such action; but only if—

"(1) he takes such action in the exercise of his profession as a doctor of medicine or osteopathy or in the exercise of his functions as a provider of health care services; and

"(2) he exercised due care in all professional conduct taken or directed by him and reasonably related to, and resulting from, the actions taken in compliance with or reliance upon such professionally accepted norms of care and treatment.

"(d) The Secretary shall make payment to an organization under contract with him pursuant to this part, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function under such contract by such organization, member, or employee.

"APPLICATION OF THIS PART TO CERTAIN STATE PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

42 USC 1320c-7.
42 USC 1396.

"SEC. 1158. (a) A State plan approved under title XIX of this Act may provide that the functions specified in section 1154 may be performed in an area by contract with a utilization and quality control peer review organization that has entered into a contract with the Secretary in accordance with the provisions of section 1862(g).

42 USC 1395y.

"(b) In the event a State enters into a contract in accordance with subsection (a), the Federal share of the expenditures made to the contracting organization for its costs in the performance of its functions under the State plan shall be 75 percent (as provided in section 1903(a)(3)(C)).

42 USC 1396b.

"AUTHORIZATION FOR USE OF CERTAIN FUNDS TO ADMINISTER THE PROVISIONS OF THIS PART

42 USC 1320c-8.
42 USC 1395y.

"SEC. 1159. Expenses incurred in the administration of the contracts described in section 1862(g) shall be payable from—

"(1) funds in the Federal Hospital Insurance Trust Fund; and

"(2) funds in the Federal Supplementary Medical Insurance Trust Fund,

in such amounts from each of such Trust Funds as the Secretary shall deem to be fair and equitable after taking into consideration the expenses attributable to the administration of this part with respect to each of such programs. The Secretary shall make such transfers of moneys between such Trust Funds as may be appropriate to settle accounts between them in cases where expenses properly payable from one such Trust Fund have been paid from the other such Trust Fund.

"PROHIBITION AGAINST DISCLOSURE OF INFORMATION

"SEC. 1160. (a) An organization, in carrying out its functions under a contract entered into under this part, shall not be a Federal agency for purposes of the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act). Any data or information acquired by any such organization in the exercise of its duties and functions shall be held in confidence and shall not be disclosed to any person except— 42 USC 1320c-9.

"(1) to the extent that may be necessary to carry out the purposes of this part,

"(2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care, or

"(3) in accordance with subsection (b).

"(b) An organization having a contract with the Secretary under this part shall provide in accordance with procedures and safeguards established by the Secretary, data and information—

"(1) which may identify specific providers or practitioners as may be necessary—

"(A) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by the peer review organization to any such agency at the request of such agency relating to a specific case or pattern;

"(B) to assist appropriate Federal and State agencies recognized by the Secretary as having responsibility for identifying cases or patterns involving risks to the public health, which data and information shall be provided by the peer review organization to any such agency—

"(i) at the discretion of the peer review organization, at the request of such agency relating to a specific case or pattern with respect to which such agency has made a finding, or has a reasonable belief, that there may be a substantial risk to the public health, or

"(ii) upon a finding by, or the reasonable belief of, the peer review organization that there may be a substantial risk to the public health; and

"(C) to assist appropriate State agencies recognized by the Secretary as having responsibility for licensing or certification of providers or practitioners, which data and information shall be provided by the peer review organization to any such agency at the request of such agency relating to a specific case, but only to the extent that such data and

information is required by the agency in carrying out a function which is within the jurisdiction of such agency under State law; and

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such organization, and shall be in the form of aggregate statistical data (without explicitly identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such organization.

The penalty provided in subsection (c) shall not apply to the disclosure of any information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such information) of any such information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the information. An organization may require payment of a reasonable fee for providing information under this subsection in response to a request for such information.

"(c) It shall be unlawful for any person to disclose any such information described in subsection (a) other than for the purposes provided in subsections (a) and (b), and any person violating the provisions of this section shall, upon conviction, be fined not more than $1,000, and imprisoned for not more than 6 months, or both, and shall be required to pay the costs of prosecution.

"(d) No patient record in the possession of an organization having a contract with the Secretary under this part shall be subject to subpena or discovery proceedings in a civil action.

"ANNUAL REPORTS

42 USC 1320c-10.

"SEC. 1161. The Secretary shall submit to the Congress not later than April 1 of each year, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status, and service areas of all utilization and quality control peer review organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by such organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) the various methods of reimbursement utilized in contracts under this part, and the relative efficiency of each such method of reimbursement;

"(4) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(5) the total costs incurred under titles XVIII and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality; and 42 USC 1395, 1396.

"(6) descriptions of the criteria upon which decisions are made, and the selection and relative weights of such criteria.

"EXEMPTIONS OF CHRISTIAN SCIENCE SANATORIUMS

"SEC. 1162. The provisions of this part shall not apply with respect to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts. 42 USC 1320c-11.

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

"SEC. 1163. For purposes of applying this part to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.". 42 USC 1320c-12.

FACILITATION OF PRIVATE REVIEW

SEC. 144. Section 1866(a)(1) of the Social Security Act is amended— 42 USC 1395cc.

(1) by striking out "and" at the end of subparagraphs (A), (B), and (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) to release data with respect to patients of such provider upon request to an organization having a contract with the Secretary under part B of title XI as may be necessary (i) to allow such organization to carry out its functions under such contract, or (ii) to allow such organization to carry out similar review functions under any contract the organization may have with a private or public agency paying for health care in the same area with respect to patients who authorize release of such data for such purposes.". 42 USC 1320c.

WAIVER OF LIABILITY PROVISION

SEC. 145. Section 1879(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any provider or other person furnishing items or services for which payment may not be made by reason of section 1862(a)(1) or (9) shall be deemed to have knowledge that payment cannot be made for such items or services if the claim relating to such items or services involves a case, provider or other person furnishing services, procedure, or test, with respect to which such provider or other person has been notified by the Secretary (including notification by a utilization and quality control peer review organization) that a pattern of inappropriate utilization has occurred in the past, and such provider or other person has been allowed a reasonable time to correct such inappropriate utilization.". 42 USC 1395pp. 42 USC 1395y.

MEDICAID PROVISIONS

95 Stat. 795.
42 USC 1396a.

SEC. 146. (a) Section 1902(d) of the Social Security Act is amended—

(1) by striking out "a Professional Standards Review Organization designated, conditionally or otherwise," and inserting in lieu thereof "a utilization and quality control peer review organization having a contract with the Secretary"; and

(2) by striking out "such Organization (or Organizations)" each place it appears and inserting in lieu thereof in each instance "such organization (or organizations)".

95 Stat. 795.
42 USC 1396b.

(b) Section 1903(a)(3)(C) of such Act is amended by striking out "Professional Standards Review Organization" and inserting in lieu thereof "utilization and quality control peer review organization".

DEMONSTRATION PROJECTS FOR COMPETITIVE BIDDING AND OTHER REIMBURSEMENT METHODS

42 USC 1395b-1.

SEC. 147. Section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) to determine whether the use of competitive bidding in the awarding of contracts, or the use of other methods of reimbursement, under part B of title XI would be efficient and effective methods of furthering the purposes of that part.".

TECHNICAL AMENDMENTS

42 USC 1395y.

SEC. 148. (a) Section 1862(d)(1)(C) of such Act is amended by striking out ", on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title)," and inserting in lieu thereof "on the basis of information acquired by the Secretary in the administration of this title".

42 USC 1395g, 1395x.

(b) Sections 1815(b), 1861(v)(1)(G), and 1861(w)(2) of such Act are each amended by striking out "Professional Standards Review Organization" and inserting in lieu thereof in each instance "quality control and peer review organization".

42 USC 1395k.

(c) Section 1832(a)(2)(F)(ii) of such Act is amended by striking out "Professional Standards Review Organization (designated, conditionally or otherwise," and inserting in lieu thereof "quality control and peer review organization (having a contract with the Secretary".

42 USC 1395*l*.

(d) Section 1833(i) of such Act is amended by striking out "the National Professional Standards Review Council and".

42 USC 1395pp.

(e) Section 1879(e) of such Act is amended by striking out "professional standards review organization" and inserting in lieu thereof "quality control and peer review organization".

EFFECTIVE DATE

SEC. 149. The amendments made by this part shall, subject to section 150, be effective with respect to contracts entered into or renewed on or after the date of the enactment of this Act. 42 USC 1320c note.

MAINTENANCE OF CURRENT PSRO AGREEMENTS

SEC. 150. (a) The Secretary of Health and Human Services shall not terminate or fail to renew any agreement in effect with a professional standards review organization under part B of title XI of the Social Security Act on the earlier of the date of the enactment of this Act or September 30, 1982 until such time as he enters into a contract with a utilization and quality control peer review organization under such part, as amended by this subtitle, for the area served by such professional standards review organization. In complying with this subsection, the Secretary may renew any such contract with a professional standards review organization for a period of less than 12 months. 42 USC 1320c note. 42 USC 1301.

(b) The provisions of part B of title XI of the Social Security Act as in effect prior to the amendments made by this subtitle shall remain in effect with respect to contracts with professional standards review organizations in effect on the earlier of the date of the enactment of this Act or September 30, 1982, until such time as such contract is terminated or is not renewed, in accordance with subsection (a). Any matters awaiting a determination by a Statewide Professional Standards Review Council on the date of the enactment of this Act shall be transferred to the Secretary of Health and Human Services for a determination unless such determination is made by such Council within 30 days after the date of the enactment of this Act. No payments shall be made under part B of title XI of the Social Security Act to Statewide Professional Standards Review Councils for services performed under section 1162 of such Act after the end of such 30-day period. 42 USC 1320c. 42 USC 1320c. 42 USC 1320c-11.

Subtitle D—Aid to Families with Dependent Children

ROUNDING OF ELIGIBILITY AND BENEFIT AMOUNTS

SEC. 151. (a) Section 402(a) of the Social Security Act is amended— 95 Stat. 857. 42 USC 602.

(1) by striking out "and" at the end of paragraph (32);

(2) by striking out the period at the end of paragraph (33) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(34) provide that both the standard of need applied to a family and the amount of aid determined to be payable, when not a whole dollar amount, shall be rounded to the next lower whole dollar amount.".

(b) The amendment made by this section shall become effective on October 1, 1982. Effective date. 42 USC 602 note.

EFFECTIVE DATE OF APPLICATION; PRORATION OF FIRST-MONTH'S AFDC BENEFIT

42 USC 602.

SEC. 152. (a) Section 402(a)(10) of the Social Security Act is amended—

(1) by striking out "provide, effective July 1, 1951, that all individuals" and inserting in lieu thereof "(A) provide that all individuals";

(2) by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new subparagraph:

"(B) provide that an application for aid under the plan will be effective no earlier than the date such application is filed with the State agency or local agency responsible for the administration of the State plan, and the amount payable for the month in which the application becomes effective, if such application becomes effective after the first day of such month, shall bear the same ratio to the amount which would be payable if the application had been effective on the first day of such month as the number of days in the month including and following the effective date of the application bears to the total number of days in such month;".

42 USC 602 note.

(b) The amendments made by this section shall become effective on October 1, 1982.

ABSENCE FROM HOME SOLELY BY REASON OF UNIFORMED SERVICE

42 USC 606.

SEC. 153. (a) Section 406(a)(1) of the Social Security Act is amended by inserting "(other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States)" after "continued absence from the home".

Effective date.
42 USC 606 note.

(b) The amendment made by this section shall become effective on October 1, 1982.

JOB SEARCH

42 USC 602.

SEC. 154. (a) Section 402(a) of the Social Security Act (as amended by section 151(a) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (33);

(2) by striking out the period at the end of paragraph (34) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(35) at the option of the State, provide—

"(A) that as a condition of eligibility for aid under the State plan of any individual claiming such aid who is required to register pursuant to paragraph (19)(A) (or who would be required to register under paragraph (19)(A) but for clause (iii) thereof), including all such individuals or only such groups, types, or classes thereof as the State agency may designate for purposes of this paragraph, such individual will be required to participate in a program of employment search—

"(i) beginning at the time he applies for such aid (or an application including his need is filed) and continuing for a period (prescribed by the State) of not more than eight weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for aid or in issuing a

payment to or in behalf of any individual who is otherwise eligible for such aid); and

"(ii) at such time or times after the close of the period prescribed under clause (i) as the State agency may determine but not to exceed a total of 8 weeks in any 12 consecutive months;

"(B) that any individual participating in a program of employment search under this paragraph will be furnished such transportation and other services, or paid (in advance or by way of reimbursement) such amounts to cover transportation costs and other expenses reasonably incurred in meeting requirements imposed on him under this paragraph, as may be necessary to enable such individual to participate in such program; and

"(C) that, in the case of an individual who fails without good cause to comply with requirements imposed upon him under this paragraph, the sanctions imposed by paragraph (19)(F) shall be applied in the same manner as if the individual had made a refusal of the type which would cause the provisions of such paragraph (19)(F) to be applied (except that the State may at its option, for purposes of this paragraph, reduce the period for which such sanctions would otherwise be in effect).".

(b)(1) Section 403(a)(3)(C) of such Act is amended by inserting immediately after "expenditures" the following: "(including as expenditures under this subparagraph the value of any services furnished, and the amount of any payments made (to cover expenses incurred by individuals under a program of employment search), under section 402(a)(35)(B))". 42 USC 603.

(2) Section 403(a)(3) of such Act is further amended by striking out "other than services" in the matter immediately following subparagraph (C) and inserting in lieu thereof the following: "other than services furnished under section 402(a)(35)(B) (as described in the parenthetical phrase in subparagraph (C)), and other than services".

(c) Section 409(b)(3) of such Act is amended— 95 Stat. 846. 42 USC 609.

(1) in the first sentence—

(A) by inserting ", any program of employment search under section 402(a)(35)," after "pursuant to this section",

(B) by striking out "both such programs" and inserting in lieu thereof "more than one such program", and

(C) by striking out "in the other" and inserting in lieu thereof "in another"; and

(2) in the second sentence, by striking out "both such programs" and inserting in lieu thereof "more than one such program".

(d) The amendments made by this section shall become effective on October 1, 1982. Effective date. 42 USC 602 note.

PRORATION OF STANDARD AMOUNT FOR SHELTER AND UTILITIES

SEC. 155. (a) Section 412 of the Social Security Act is amended to read as follows: 42 USC 612.

"PRORATING SHELTER ALLOWANCE OF AFDC FAMILY LIVING WITH ANOTHER HOUSEHOLD

"SEC. 412. A State plan for aid and services to needy families with children may provide that, in determining the need of any dependent child or relative claiming aid who is living with other individuals (not claiming aid together with such child or relative) as a household (as defined, for purposes of this section, by the Secretary), the amount included in the standard of need, and the payment standard, applied to such child or relative for shelter, utilities, and similar needs may be prorated on a reasonable basis, in such manner and under such circumstances as the State may determine to be appropriate. For purposes of any method of proration used by a State under this section, there shall not be included as a member of a household an individual receiving benefits under title XVI in any month to whom the one-third reduction prescribed by section 1612(a)(2)(A)(i) is applied.".

42 USC 1381.

42 USC 1382a.

Effective date.
42 USC 612 note.

(b) The amendment made by this section shall become effective on October 1, 1982.

LIMITATION ON FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS ASSISTANCE EXPENDITURES

42 USC 603.

SEC. 156. (a) Section 403(i) of the Social Security Act is amended to read as follows:

"(i)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments (as defined in subparagraph (C)) to its total payments under the State plan approved under this part exceeds—

"(i) 0.04 for fiscal year 1983, or

"(ii) 0.03 for any fiscal year thereafter,

then the Secretary shall make no payment for such fiscal year with respect to so much of the erroneous excess payments (as so defined) as exceeds the allowable error rate for such fiscal year.

"(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a fiscal year despite a good faith effort by such State.

"(C) For purposes of this subsection, the term 'erroneous excess payments' means the total of (i) payments to ineligible families, and (ii) overpayments to eligible families.

"(2) The State agency administering the plan approved under this part shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

"(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

"(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rate for a fiscal year, the amount that would otherwise

be payable to such State under this part for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

"(4) This subsection shall not apply with respect to Puerto Rico, Guam, or the Virgin Islands.".

(b) Section 403(a) of such Act is amended by striking out "In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section.". 42 USC 603.

(c) Section 403(j) of such Act is amended by striking out "If the dollar error rate of aid furnished by a State" and inserting in lieu thereof "In the case of Puerto Rico, Guam, or the Virgin Islands, if the dollar error rate of aid furnished by such State". 42 USC 603.

(d)(1) The amendments made by subsections (a) and (b) shall become effective on October 1, 1982. Effective date. 42 USC 603 note.

(2) The inapplicability of section 403(j) of the Social Security Act to States other than Puerto Rico, Guam, and the Virgin Islands by reason of the amendment made by subsection (c) shall be effective with respect to six-month periods beginning after April 1983.

(e) The regulations currently in effect for fiscal year 1982 with respect to erroneous payments made by States under a State plan approved under part A of title IV of the Social Security Act (45 CFR 205.42) shall remain in effect with respect to erroneous payments made by States until new regulations reflecting the changes made by subsection (a) are promulgated and placed in effect. 42 USC 603 note. 42 USC 601.

EXCLUSION FROM INCOME OF CERTAIN STATE PAYMENTS

SEC. 157. (a) The last sentence of section 403(a) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", but any such amount, if determined to have been paid by the State in recognition of the difference between the current or anticipated needs of a family for a month based upon actual income or other relevant circumstances for such month, and the needs of such family for such month based upon income and other relevant circumstances as retrospectively determined under section 402(a)(13)(A)(ii), shall not be considered income within the meaning of section 402(a)(13) for the purpose of determining the amount of aid in the succeeding months". 42 USC 603. 42 USC 602.

(b) The amendment made by this section shall become effective on October 1, 1982. Effective date. 42 USC 603 note.

EXTENSION OF TIME FOR STATES TO ESTABLISH A WORK INCENTIVE DEMONSTRATION PROGRAM

SEC. 158. (a) Section 445(b)(1) of the Social Security Act is amended by striking out "Not later than sixty days following the date of the enactment of this section" and inserting in lieu thereof "Not later than June 30, 1984". 95 Stat. 850. 42 USC 645.

(b) Section 445(b)(1)(B) of such Act is amended by inserting before the semicolon at the end thereof the following: ", but subject to waiver of such criteria as provided under section 1115". 42 USC 1315.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act. Effective date. 42 USC 645 note.

EXCLUSION FROM INCOME

42 USC 602 note. SEC. 159. Notwithstanding any other provision of law, payments which are made, under a statutorily established State program, to meet certain needs of children receiving aid under the State's plan
42 USC 601. approved under part A of title IV of the Social Security Act, if—

(1) the payments are made to such children by the State agency administering such plan, but are made without Federal financial participation (under section 403(a) of such Act or otherwise), and

(2) the State program has been continuously in effect since before January 1, 1979,

shall be excluded from the income of such children and their families for purposes of section 402(a)(17) of such Act, and for all the other purposes of such part A and of such plan, effective on the date of the enactment of this Act.

TECHNICAL AMENDMENTS TO SOCIAL SERVICES AND FOSTER CARE PROVISIONS IN 1981 RECONCILIATION ACT

42 USC 1308. SEC. 160. (a) Section 1108(a) of the Social Security Act is amended by adding at the end thereof (after and below paragraph (3)(F)) the following new sentence:

"Each jurisdiction specified in this subsection may use in its program under title XX any sums available to it under this subsection which are not needed to carry out the programs specified in this subsection."

95 Stat. 868. 42 USC 1397b. (b) Section 2003(b) of such Act is amended in the matter following clause (2) by inserting "(other than Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands)" after "the population of all the States".

95 Stat. 871. 42 USC 1301. (c) The last sentence of section 1101(a)(1) of such Act is amended by striking out "American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting in lieu thereof "Guam, and the Northern Mariana Islands".

95 Stat. 871. 42 USC 671. (d) Section 2353(r) of the Omnibus Budget Reconciliation Act of 1981 is amended to read as follows:

"(r) Section 471(a)(10) of such Act is amended to read as follows:

" '(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;' ".

Effective date. 42 USC 1301 note. (e) The amendments made by this section shall be effective as of October 1, 1981.

DELAYED EFFECTIVE DATE IN CASES REQUIRING CONFORMING STATE LEGISLATION

42 USC 602 note. SEC. 161. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation

is required in order to conform the State plan approved under part A of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature. 42 USC 601.

Subtitle E—Child Support Enforcement

FEE FOR SERVICES TO NON-AFDC FAMILIES

SEC. 171. (a) Section 454(6) of the Social Security Act is amended— 95 Stat. 862. 42 USC 654.

(1) in clause (A), by inserting "including, at the option of the State, support collection services for the spouse (or former spouse) with whom the absent parent's child is living (but only if a support obligation has been established with respect to such spouse)," after "with the State,";

(2) in clause (B), by striking out "services under the State plan (other than collection of support)" and inserting in lieu thereof "such services"; and

(3) by amending clause (C) to read as follows: "(C) any costs in excess of the fee so imposed may be collected—

"(i) from the parent who owes the child or spousal support obligation involved, or

"(ii) at the option of the State, from the individual to whom such services are made available, but only if such State has in effect a procedure whereby all persons in such State having authority to order child or spousal support are informed that such costs are to be collected from the individual to whom such services were made available;".

(b)(1) Section 454 of such Act is further amended— 95 Stat. 863.

(A) by adding "and" after the semicolon at the end of paragraph (18);

(B) by striking out paragraph (19); and

(C) by redesignating paragraph (20) as paragraph (19).

(2) Section 2333(c) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "Section 453(a) of such Act is amended" and inserting in lieu thereof "Section 455(a) of such Act is amended". 95 Stat. 862. 42 USC 655.

(3) Section 303(e)(2)(A)(iii)(II) of the Social Security Act is amended by striking out "454(20)(B)(i)" and inserting in lieu thereof "454(19)(B)(i)". 42 USC 503.

(c) The amendments made by this section shall be effective on and after August 13, 1981. Effective date. 42 USC 503 note.

ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY

SEC. 172. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY

42 USC 665.

"SEC. 465. (a)(1) In any case in which child support payments or child and spousal support payments are owed by a member of one of the uniformed services (as defined in section 101(3) of title 37, United States Code) on active duty, such member shall be required to make allotments from his pay and allowances (under chapter 13 of title 37, United States Code) as payment of such support, when he has failed to make periodic payments under a support order that meets the criteria specified in section 303(b)(1)(A) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)(1)(A)) and the resulting delinquency in such payments is in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person (as defined in subsection (b)) to the designated official in the appropriate uniformed service. Such notice (which shall in turn be given to the affected member) shall also specify the person to whom the allotment is to be payable. The amount of the allotment shall be the amount necessary to comply with the order (which, if the order so provides, may include arrearages as well as amounts for current support), except that the amount of the allotment, together with any other amounts withheld for support from the wages of the member, as a percentage of his pay from the uniformed service, shall not exceed the limits prescribed in sections 303 (b) and (c) of the Consumer Credit Protection Act (15 U.S.C. 1673 (b) and (c)). An allotment under this subsection shall be adjusted or discontinued upon notice from the authorized person.

"(2) Notwithstanding the preceding provisions of this subsection, no action shall be taken to require an allotment from the pay and allowances of any member of one of the uniformed services under such provisions (A) until such member has had a consultation with a judge advocate of the service involved (as defined in section 801(13) of title 10, United States Code), or with a law specialist (as defined in section 801(11) of such title) in the case of the Coast Guard, or with a legal officer designated by the Secretary concerned (as defined in section 101(5) of title 37, United States Code) in any other case, in person, to discuss the legal and other factors involved with respect to the member's support obligation and his failure to make payments thereon, or (B) until 30 days have elapsed after the notice described in the second sentence of paragraph (1) is given to the affected member in any case where it has not been possible, despite continuing good faith efforts, to arrange such a consultation.

"Authorized person."

"(b) For purposes of this section the term 'authorized person' with respect to any member of the uniformed services means—

"(1) any agent or attorney of a State having in effect a plan approved under this part who has the duty or authority under such plan to seek to recover any amounts owed by such member as child or child and spousal support (including, when authorized under the State plan, any official of a political subdivision); and

"(2) the court which has authority to issue an order against such member for the support and maintenance of a child, or any agent of such court.

"(c) The Secretary of Defense, in the case of the Army, Navy, Air Force, and Marine Corps, and the Secretary concerned (as defined in section 101(5) of title 37, United States Code) in the case of each of

the other uniformed services, shall each issue regulations applicable to allotments to be made under this section, designating the officials to whom notice of failure to make support payments, or notice to discontinue or adjust an allotment, should be given, prescribing the form and content of the notice and specifying any other rules necessary for such Secretary to implement this section.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1982. Effective date. 42 USC 665 note.

REIMBURSEMENT OF STATE AGENCY IN INITIAL MONTH OF INELIGIBILITY FOR AFDC

SEC. 173. (a) Section 454(5) of the Social Security Act is amended by inserting "following the first month" after "for any month". 42 USC 654.

(b) The amendment made by this section shall become effective on October 1, 1982. Effective date. 42 USC 654 note.

REDUCTION IN CERTAIN FEDERAL PAYMENTS TO STATES UNDER CHILD SUPPORT ENFORCEMENT PROGRAM

SEC. 174. (a) Section 455(a)(1) of the Social Security Act is amended by striking out "75 percent" and inserting in lieu thereof "70 percent". 42 USC 655.

(b) Section 455(c) of such Act is repealed.

(c) Section 458(a) of such Act is amended by striking out "15 per centum" and inserting in lieu thereof "12 percent". 42 USC 658.

(d) The amendment made by subsection (a) shall apply with respect to quarters beginning on or after October 1, 1982. Subsection (b) shall apply with respect to quarters beginning on or after October 1, 1983; and the amendment made by subsection (c) shall apply with respect to amounts collected on or after October 1, 1983. 42 USC 655 note.

TECHNICAL AMENDMENTS TO CHILD SUPPORT ENFORCEMENT PROVISIONS IN RECONCILIATION ACT

SEC. 175. (a)(1) The first sentence of section 452(b) of the Social Security Act is amended by striking out "certify" and all that follows and inserting in lieu thereof "certify to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954 the amount of any child support obligation (including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A) which is assigned to such State or is undertaken to be collected by such State pursuant to section 454(6)." 42 USC 652. 26 USC 6305. 42 USC 654.

(2) Section 303(e)(2)(A)(i) of such Act is amended by striking out "of this subsection" and inserting in lieu thereof "of paragraph (1)". 95 Stat. 863. 42 USC 503.

(b) The amendments made by this section shall be effective as of October 1, 1981. Effective date. 42 USC 503 note.

DELAYED EFFECTIVE DATE IN CASES REQUIRING STATE LEGISLATION

SEC. 176. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part 42 USC 654 note. 42 USC 601.

solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

"Session."

Subtitle F—Supplemental Security Income

EFFECTIVE DATE OF APPLICATION; PRORATION OF INITIAL SSI BENEFIT PAYMENT

95 Stat. 865.
42 USC 1382.

SEC. 181. (a) Section 1611(c) of the Social Security Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) The amount of such benefit for the month in which an application for benefits becomes effective (or, if the Secretary so determines, for such month and the following month) and for any month immediately following a month of ineligibility for such benefits (or, if the Secretary so determines, for such month and the following month) shall—

"(A) be determined on the basis of the income of the individual and the eligible spouse, if any, of such individual and other relevant circumstances in such month; and

"(B) in the case of the month in which an application becomes effective or the first month following a period of ineligibility, if such application becomes effective, or eligibility is restored, after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if such application had become effective, or eligibility had been restored, on the first day of such month as the number of days in such month including and following the effective date of such application or restoration of eligibility bears to the total number of days in such month.

"(3) For purposes of this subsection, an application of an individual for benefits under this title shall be effective on the later of—

"(A) the date such application is filed, or

"(B) the date such individual first becomes eligible for such benefits with respect to such application.".

Effective date.
42 USC 1382 note.

(b) The amendment made by this section shall become effective on October 1, 1982.

ROUNDING OF SSI ELIGIBILITY AND BENEFIT AMOUNTS

42 USC 1382f.

SEC. 182. (a) Section 1617 of the Social Security Act is amended to read as follows:

"COST-OF-LIVING ADJUSTMENTS IN BENEFITS

42 USC 401.

"SEC. 1617. (a) Whenever benefit amounts under title II are increased by any percentage effective with any month as a result of

42 USC 415.

a determination made under section 215(i)—

"(1) each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), and (b)(2) of section 1611,

42 USC 1382, 411.

and subsection (a)(1)(A) of section 211 of Public Law 93-66, as specified in such subsections or as previously increased under

this section, shall be increased by the amount (if any) by which—

"(A) the amount which would have been in effect for such month under such subsection but for the rounding of such amount pursuant to paragraph (2), exceeds

"(B) the amount in effect for such month under such subsection; and

"(2) the amount obtained under paragraph (1) with respect to each subsection shall be further increased by the same percentage by which benefit amounts under title II are increased for such month (and rounded, when not a multiple of $12, to the next lower multiple of $12), effective with respect to benefits for months after such month. 42 USC 401.

"(b) The new dollar amounts to be in effect under section 1611 of this title and under section 211 of Public Law 93-66 by reason of this section shall be published in the Federal Register together with, and at the same time as, the material required by section 215(i)(2)(D) to be published therein by reason of the determination involved.". Publication in Federal Register. 42 USC 1382, 411. 42 USC 415.

(b) The amendment made by this section shall become effective on October 1, 1982. Effective date. 42 USC 1382f note.

COORDINATION OF SSI AND OASDI COST-OF-LIVING ADJUSTMENTS

SEC. 183. (a) Section 1611(c) of the Social Security Act (as amended by section 181 of this Act) is further amended— 42 USC 1382.

(1) in paragraph (1) by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)";

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) For purposes of this subsection, an increase in the benefit amount payable under title II (over the amount payable in the preceding month, or, at the election of the Secretary, the second preceding month) to an individual receiving benefits under this title shall be included in the income used to determine the benefit under this title of such individual for any month which is—

"(A) the first month in which the benefit amount payable to such individual under this title is increased pursuant to section 1617, or

"(B) at the election of the Secretary, the month immediately following such month.

"(4)(A) Notwithstanding paragraph (3), if the Secretary determines that reliable information is currently available with respect to the income and other circumstances of an individual for a month (including information with respect to a class of which such individual is a member and information with respect to scheduled cost-of-living adjustments under other benefit programs), the benefit amount of such individual under this title for such month may be determined on the basis of such information.

"(B) The Secretary shall prescribe by regulation the circumstances in which information with respect to an event may be taken into account pursuant to subparagraph (A) in determining benefit amounts under this title.".

(b) The amendment made by subsection (a) shall become effective October 1, 1982. Effective date. 42 USC 1382 note.

PHASEOUT OF HOLD HARMLESS PROTECTION

42 USC 1382e note.

SEC. 184. (a) Section 401 of the Social Security Amendments of 1972 (Public Law 92-603) is amended by adding at the end thereof the following new subsection:

"(d) In addition to the amount which a State must pay to the Secretary for the fiscal year 1983 or the fiscal year 1984, as determined under subsection (a), the State shall also pay, for the fiscal year 1983, 60 percent of the further amount that would be payable but for the limit specified in subsection (a), and, for the fiscal year 1984, 80 percent of such further amount. For each fiscal year thereafter, the limit prescribed in subsection (a) shall be inapplicable and a State shall pay to the Secretary the full amount of any supplementary payments he makes on behalf of such State.".

Effective date. 42 USC 1382e note.

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

EXCLUSION FROM RESOURCES OF BURIAL PLOTS AND CERTAIN FUNDS SET ASIDE FOR BURIAL EXPENSES

42 USC 1382b.

SEC. 185. (a) Section 1613(a)(2) of the Social Security Act is amended by inserting "(A)" after "(2)", by adding "and" after the semicolon, and by adding at the end thereof the following new subparagraph:

"(B) the value of any burial space (subject to such limits as to size or value as the Secretary may by regulation prescribe) held for the purpose of providing a place for the burial of the individual, his spouse, or any other member of his immediate family;".

(b) Section 1613 of such Act is further amended by adding at the end thereof the following new subsection:

"Funds Set Aside for Burial Expenses

"(d)(1) In determining the resources of an individual, there shall be excluded an amount, not in excess of $1,500 each with respect to such individual and his spouse (if any), that is separately identifiable and has been set aside to meet the burial and related expenses of such individual or spouse if the inclusion of any portion of such amount or amounts would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a).

42 USC 1382.

"(2) The amount of $1,500, referred to in paragraph (1), with respect to an individual shall be reduced by an amount equal to (A) the total face value of all insurance policies on his life which are owned by him or his spouse and the cash surrender value of which has been excluded in determining the resources of such individual or of such individual and his spouse, and (B) the total of any amounts in an irrevocable trust (or other irrevocable arrangement) available to meet the burial and related expenses of such individual or his spouse.

"(3) If the Secretary finds that any part of the amount excluded under paragraph (1) was used for purposes other than those for which it was set aside, he shall reduce any future benefits payable to the eligible individual (or to such individual and his spouse) by an amount equal to such part.

"(4) The Secretary may provide by regulations that whenever an amount set aside to meet burial and related expenses is excluded under paragraph (1) in determining the resources of an individual, any interest earned or accrued on such amount (and left to accumulate), and any appreciation in the value of prepaid burial arrangements for which such amount was set aside, shall also be excluded (to such extent and subject to such conditions or limitations as such regulations may prescribe) in determining the resources (and the income) of such individual.".

(c) The amendment made by this section shall take effect on the first day of the second month after the month in which this Act is enacted. Effective date. 42 USC 1382b note.

MANDATORY PASSTHROUGH UNDER STATE SUPPLEMENTATION PROVISIONS

SEC. 186. Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1382g.

"(c) Any State which satisfies the requirements of this section solely by reason of subsection (b) for a particular month or months in any 12-month period (described in such subsection) ending on or after June 30, 1982, may elect, with respect to any month in any subsequent 12-month period (so described), to apply subsection (a)(4) as though the reference to December 1976 in such subsection were a reference to the month of December which occurred in the 12-month period immediately preceding such subsequent period.".

TREATMENT OF UNNEGOTIATED CHECKS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 187. (a) Section 1631(i)(2) of the Social Security Act (as added by section 2343(a) of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "included in all checks payable to individuals entitled to benefits under this title but" in the first sentence and inserting in lieu thereof "included in all such benefit checks". 95 Stat. 866. 42 USC 1383.

(b) The amendment made by subsection (a) shall become effective October 1, 1982. Effective date. 42 USC 1383 note.

Subtitle G—Unemployment Compensation

ROUNDING OF BENEFIT AMOUNTS

SEC. 191. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "or" at the end of clause (B), and by inserting before the period at the end thereof the following: ", or (D) paid to an individual with respect to a week of unemployment to the extent that such amount exceeds the amount of such compensation which would be paid to such individual if such State had a benefit structure which provided that the amount of compensation otherwise payable to any individual for any week shall be rounded (if not a full dollar amount) to the nearest lower full dollar amount". 95 Stat. 884. 26 USC 3304 note.

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning on or after October 1, 1983. Effective date. 42 USC 3304 note.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to provide for rounding down of unemployment compensation amounts, the amendment made by this section shall apply in the case of compensation paid to individuals during eligibility periods which begin on or after October 1, 1983, and after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

"Session."

USE OF CERTAIN AMOUNTS TRANSFERRED TO STATE UNEMPLOYMENT FUNDS

42 USC 1103.

SEC. 192. (a) Paragraph (2) of section 903(c) of the Social Security Act is amended—

(1) by striking out "twenty-four" each place it appears and inserting in lieu thereof "thirty-four"; and

(2) by striking out "twenty-fourth" in the second sentence and inserting in lieu thereof "thirty-fourth".

(b) Subsection (c) of section 903 of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) If—

"(i) amounts transferred to the account of a State pursuant to subsections (a) and (b) of this section were used in payment of unemployment benefits to individuals; and

"(ii) the Governor of such State submits a request to the Secretary of Labor that such amounts be restored under this paragraph,

then the amounts described in clause (i) shall be restored to the status of funds transferred under subsections (a) and (b) of this section which have not been used by eliminating any charge against amounts so transferred for the use of such amounts in the payment of unemployment benefits.

"(B) Subparagraph (A) shall apply only to the extent that the amounts described in clause (i) of such subparagraph do not exceed the amount then in the State's account.

"(C) Subparagraph (A) shall not apply if the State has a balance of advances made to its account under title XII of this Act.

42 USC 1321.

"(D) If the Secretary of Labor determines that the requirements of this paragraph are met with respect to any request, the Secretary shall notify the Governor of the State that such requirements are met with respect to such request and the amount restored under this paragraph. Such restoration shall be as of the first day of the first month following the month in which the notification is made.".

TREATMENT OF CERTAIN EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

26 USC 3304.

SEC. 193. (a) Clause (ii) of section 3304(a)(6)(A) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended to read as follows:

"(ii) with respect to services in any other capacity for an educational institution to which section 3309(a)(1) applies—

26 USC 3309.

"(I) compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between 2 successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that

"(II) if compensation is denied to any individual for any week under subclause (I) and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of subclause (I),".

(b)(1) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act. Effective date. 26 USC 3304 note.

(2) The amendment made by subsection (a), insofar as it requires retroactive payments of compensation to employees of educational institutions other than institutions of higher education (as defined in section 3304(f) of the Internal Revenue Code of 1954), shall not be a requirement for any State law before January 1, 1984.

SHORT-TIME COMPENSATION

SEC. 194. (a) It is the purpose of this section to assist States which provide partial unemployment benefits to individuals whose workweeks are reduced pursuant to an employer plan under which such reductions are made in lieu of temporary layoffs. 26 USC 3304 note.

(b)(1) The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall develop model legislative language which may be used by States in developing and enacting short-time compensation programs, and shall provide technical assistance to States to assist in developing, enacting, and implementing such short-time compensation program.

(2) The Secretary shall conduct a study or studies for purposes of evaluating the operation, costs, effect on the State insured rate of unemployment, and other effects of State short-time compensation programs developed pursuant to this section.

(3) This section shall be a three-year experimental provision, and the provisions of this section regarding guidelines shall terminate 3 years following the date of the enactment of this Act.

(4) States are encouraged to experiment in carrying out the purpose and intent of this section. However, to assure minimum uniformity, States are encouraged to consider requiring the provisions contained in subsections (c) and (d).

(c) For purposes of this section, the term "short-time compensation program" means a program under which— Definitions.

(1) individuals whose workweeks have been reduced pursuant to a qualified employer plan by at least 10 per centum will be eligible for unemployment compensation;

(2) the amount of unemployment compensation payable to any such individual shall be a pro rata portion of the unemploy-

ment compensation which would be payable to the individual if the individual were totally unemployed;

(3) eligible employees may be eligible for short-time compensation or regular unemployment compensation, as needed; except that no employee shall be eligible for more than the maximum entitlement during any benefit year to which he or she would have been entitled for total unemployment, and no employee shall be eligible for short-time compensation for more than twenty-six weeks in any twelve-month period; and

(4) eligible employees will not be expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but shall be available for their normal workweek.

(d) For purposes of subsection (c), the term "qualified employer plan" means a plan of an employer or of an employers' association which association is party to a collective bargaining agreement (hereinafter referred to as "employers' association") under which there is a reduction in the number of hours worked by employees rather than temporary layoffs if—

(1) the employer's or employers' association's short-time compensation plan is approved by the State agency;

(2) the employer or employers' association certifies to the State agency that the aggregate reduction in work hours pursuant to such plan is in lieu of temporary layoffs which would have affected at least 10 per centum of the employees in the unit or units to which the plan would apply and which would have resulted in an equivalent reduction of work hours;

(3) during the previous four months the work force in the affected unit or units has not been reduced by temporary layoffs of more than 10 per centum;

(4) the employer continues to provide health benefits, and retirement benefits under defined benefit pension plans (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974, to employees whose workweek is reduced under such plan as though their workweek had not been reduced; and

29 USC 1002.

(5) in the case of employees represented by an exclusive bargaining representative, that representative has consented to the plan.

The State agency shall review at least annually any qualified employer plan put into effect to assure that it continues to meet the requirements of this subsection and of any applicable State law.

(e) Short-time compensation shall be charged in a manner consistent with the State law.

(f) For purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(g)(1) The Secretary shall conduct a study or studies of State short-time compensation programs consulting with employee and employer representatives in developing criteria and guidelines to measure the following factors:

(A) the impact of the program upon the unemployment trust fund, and a comparison with the estimated impact on the fund of layoffs which would have occurred but for the existence of the program;

(B) the extent to which the program has protected and preserved the jobs of workers, with special emphasis on newly hired employees, minorities, and women;

(C) the extent to which layoffs occur in the unit subsequent to initiation of the program and the impact of the program upon the entitlement to unemployment compensation of the employees;

(D) where feasible, the effect of varying methods of administration;

(E) the effect of short-time compensation on employers' State unemployment tax rates, including both users and nonusers of short-time compensation, on a State-by-State basis;

(F) the effect of various State laws and practices under those laws on the retirement and health benefits of employees who are on short-time compensation programs;

(G) a comparison of costs and benefits to employees, employers, and communities from use of short-time compensation and layoffs;

(H) the cost of administration of the short-time compensation program; and

(I) such other factors as may be appropriate.

(2) Not later than October 1, 1985, the Secretary shall submit to the Congress and to the President a final report on the implementation of this section. Such report shall contain an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary deems advisable, including recommendations as to necessary changes in the statistical practices of the Department of Labor. Report to President and Congress.

TITLE II—REVENUE MEASURES

Subtitle A—Provisions Relating to Individuals

SEC. 201. ALTERNATIVE MINIMUM TAX ON TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Section 55 (relating to alternative minimum tax for taxpayers other than corporations) is amended to read as follows: 26 USC 55.

"SEC. 55. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

"(a) TAX IMPOSED.—In the case of a taxpayer other than a corporation, there is imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) an amount equal to 20 percent of so much of the alternative minimum taxable income as exceeds the exemption amount, over

"(2) the regular tax for the taxable year.

"(b) ALTERNATIVE MINIMUM TAXABLE INCOME.—For purposes of this title, the term 'alternative minimum taxable income' means the adjusted gross income (determined without regard to the deduction allowed by section 172) of the taxpayer for the taxable year—

"(1) reduced by the sum of—

"(A) the alternative tax net operating loss deduction, plus

"(B) the alternative tax itemized deductions, plus

26 USC 667.

"(C) any amount included in income under section 667, and

"(2) increased by the amount of items of tax preference.

"(c) CREDITS.—

26 USC 31.

"(1) IN GENERAL.—For purposes of determining any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowed under section 33(a))—

"(A) the tax imposed by this section shall not be treated as a tax imposed by this chapter, and

"(B) the amount of the foreign tax credit allowed by section 33(a) shall be determined without regard to this section.

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

"(A) DETERMINATION OF FOREIGN TAX CREDIT.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (section 901 and following).

"(B) INCREASE IN AMOUNT OF FOREIGN TAXES TAKEN INTO ACCOUNT.—For purposes of the determination provided by subparagraph (A), the amount of the taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

"(i) the foreign tax credit allowable under section 33(a) in computing the regular tax for the taxable year, or

"(ii) the tax imposed by subsection (a).

"(C) SECTION 904(a) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax as—

"(i) the taxpayer's alternative minimum taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(ii) his entire alternative minimum taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

"(D) DEFINITION OF ALTERNATIVE MINIMUM TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subparagraph (C), the term 'alternative minimum taxable income from sources without the United States' means adjusted gross income from sources without the United States, adjusted as provided in paragraphs (1) and (2) of subsection (b) (taking into account in such adjustment only items described in such paragraphs which are properly attributable to items of gross income from sources without the United States).

"(E) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued in a preceding or succeeding taxable year under section 904(c)—

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (C), and 26 USC 904.

"(ii) any increase under subparagraph (B) shall be taken into account.

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—

"(A) IN GENERAL.—In the case of any taxable year in which a tax is imposed by this section, for purposes of determining the amount of any carryback or carryover of any applicable credit to any other taxable year, the amount of the applicable credit limitation for such taxable year shall be deemed to be—

"(i) the amount of the applicable credit allowable for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by

"(ii) the amount of the tax imposed by this section for the taxable year, reduced by—

"(I) the amount of the credit allowable under section 33(a), and

"(II) the amount of such tax taken into account under this clause with respect to any applicable credit having a lower number or letter designation.

"(B) APPLICABLE CREDITS, ETC.—For purposes of this paragraph—

"(i) APPLICABLE CREDIT.—The term 'applicable credit' means any credit allowable under section 38, 40, 44B, 44C, 44E, or 44F.

"(ii) APPLICABLE CREDIT LIMITATION.—The term 'applicable credit limitation' means, with respect to any applicable credit, the limitation under section 46(a)(3), 53(a), 44C(b)(5), 44E(e)(1), 44F(g)(1), or 50A(a)(2), whichever is appropriate.

"(d) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

"(A) in the case of taxable years beginning after December 31, 1982, section 172(b)(2) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income' each place it appears, and

"(B) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2).

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1982 LOSS YEARS.—In the case of a loss year beginning after December 31, 1982, the net operating loss for such year under section 172(c) shall—

"(i) be reduced by the amount of the items of tax preference arising in such year which are taken into account in computing the net operating loss, and

"(ii) be computed by taking into account only itemized deductions which are alternative tax itemized deductions for the taxable year and which are otherwise described in section 172(c).

"(B) PRE-1983 YEARS.—In the case of loss years beginning before January 1, 1983, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1982, for purposes of subparagraph (A), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1982.

"(e) ALTERNATIVE TAX ITEMIZED DEDUCTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'alternative tax itemized deductions' means an amount equal to the sum of any amount allowable as a deduction for the taxable year (other than a deduction allowable in computing adjusted gross income) under—

26 USC 165.

"(A) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(B) section 170 (relating to charitable deductions),

"(C) section 213 (relating to medical deductions),

"(D) this chapter for qualified interest, or

"(E) section 691(c) (relating to deduction for estate tax).

"(2) AMOUNTS WHICH MAY BE CARRIED OVER.—No amount shall be taken into account under paragraph (1) to the extent such amount may be carried to another taxable year for purposes of the regular tax.

"(3) QUALIFIED INTEREST.—The term 'qualified interest' means the sum of—

"(A) any qualified housing interest, and

"(B) any amount allowed as a deduction for interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(4) QUALIFIED HOUSING INTEREST.—

"(A) IN GENERAL.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) QUALIFIED DWELLING.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(C) SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(i) was incurred by the taxpayer before July 1, 1982, and

"(ii) is secured by property which, at the time such indebtedness was incurred, was—

"(I) the principal residence (within the meaning of section 1034) of the taxpayer, or 26 USC 1034.

"(II) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

"(5) QUALIFIED NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(B) QUALIFIED INVESTMENT INCOME.—The term 'qualified investment income' means the sum of—

"(i) investment income (within the meaning of section 163(d)(3)(B) other than clause (ii) thereof),

"(ii) any net capital gain attributable to the disposition of property held for investment, and

"(iii) the amount of items of tax preference described in paragraph (1) of section 57(a).

"(C) QUALIFIED INVESTMENT EXPENSES.—The term 'qualified investment expenses' means the deductions directly connected with the production of qualified investment income to the extent that—

"(i) such deductions are allowable in computing adjusted gross income, and

"(ii) such deductions are not items of tax preference.

"(6) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under sections 642(c), 651(a), and 661(a).

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—The adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(7) LIMITATION ON MEDICAL DEDUCTION.—In applying subparagraph (C) of paragraph (1), the amount allowable as a deduction under section 213 shall be determined by substituting '10 percent' for '5 percent' in section 213(a). *Post*, p. 421.

"(8) TREATMENT OF INTERESTS IN LIMITED PARTNERSHIPS AND SUBCHAPTER S CORPORATIONS.—

"(A) CERTAIN INTEREST TREATED AS NOT ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Any amount allowable as a deduction for interest on indebtedness incurred or continued to purchase or carry a limited business interest shall be treated as not allowable in computing adjusted gross income.

"(B) INCOME TREATED AS QUALIFIED INVESTMENT INCOME.—Any income derived from a limited business interest shall be treated as qualified investment income.

"(C) LIMITED BUSINESS INTEREST.—The term 'limited business interest' means an interest—

"(i) as a limited partner in a partnership, or

"(ii) as a shareholder in an electing small business corporation (as defined in section 1371(b)) if the taxpayer does not actively participate in the management of such corporation.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) EXEMPTION AMOUNT.—The term 'exemption amount' means—

"(A) $40,000 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $30,000 in the case of an individual who—

"(i) is not a married individual (as defined in section 143), and

"(ii) is not a surviving spouse (as so defined), and

"(C) $20,000 in the case of—

"(i) a married individual (as so defined) who files a separate return, or

"(ii) an estate or trust.

"(2) REGULAR TAX.—The term 'regular tax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 72(m)(5)(B), 72(q), 402(e), 408(f), 409(c), and 667(b)) reduced by the sum of the credits allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43). For purposes of this paragraph, the amount of the credits allowable under such subpart shall be determined without regard to this section."

Post, pp. 509, 546.

Post, p. 585.

(b) ITEMS OF TAX PREFERENCE.—

26 USC 57.

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) EXCLUSION OF INTEREST AND DIVIDENDS.—Any amount excluded from gross income for the taxable year under section 116 or 128.",

(B) by striking out paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) MINING EXPLORATION AND DEVELOPMENT COSTS.—With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

"(A) the amount allowable as a deduction under section 616(a) or 617, over

"(B) the amount which would have been allowable if the expenditures had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.

"(6) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—An amount equal to the excess of—

"(A) the amount allowable as a deduction under section 173 or 174(a) for the taxable year, over

"(B) the amount which would have been allowable for the taxable year if the circulation expenditures described in section 173 or the research and experimental expenditures described in section 174 had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.", and

(C) by striking out paragraph (10) and inserting in lieu thereof the following:

"(10) INCENTIVE STOCK OPTIONS.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price."

(2) CONFORMING AMENDMENTS.—

(A) The next to last sentence of section 57(a) is amended by striking out "(3), (11), and (12)" and inserting in lieu thereof "(1), (3), (5), (6), (11), and (12)(A)". 95 Stat. 224. 26 USC 57.

(B) Section 57(a) is amended by striking out the last sentence.

(c) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES—

(1) Section 58 (relating to rules for application of minimum tax) is amended by adding at the end thereof the following new subsection: 26 USC 58.

"(i) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES.—

"(1) IN GENERAL.—For purposes of this title, in the case of an individual, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period beginning with the taxable year in which such expenditure was made.

"(2) QUALIFIED EXPENDITURE.—For purposes of this subsection, the term 'qualified expenditure' means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

"(A) section 173 (relating to circulation expenditures),

"(B) section 174(a) (relating to research and experimental expenditures),

"(C) section 263(c) (relating to intangible drilling and development expenditures),

"(D) section 616(a) (relating to development expenditures), or

"(E) section 617 (relating to deduction of certain mining exploration expenditures).

"(3) OTHER SECTIONS NOT APPLICABLE.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

"(4) SPECIAL ELECTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS NOT ALLOCABLE TO INTEREST AS LIMITED PARTNER.—

"(A) IN GENERAL.—In the case of any nonlimited partnership intangible drilling costs to which an election under this paragraph applies—

"(i) the applicable percentage of such costs (adjusted as provided in section 48(q)) shall be allowed as a deduction for the taxable year in which paid or incurred and for each of the 4 succeeding taxable years, and *Post*, p. 427.

"(ii) such costs shall be treated, for purposes of determining the amount of the credit allowable under section 38 for the taxable year in which paid or incurred, as qualified investment (within the meaning of subsections (c) and (d) of section 46) with respect to property placed in service during such year.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage determined in accordance with the following table:

"Taxable Year:	Applicable percentage:
1	15
2	22
3	21
4	21
5	21

"(C) NONLIMITED PARTNERSHIP INTANGIBLE DRILLING COSTS.—For purposes of this paragraph, the term 'nonlimited partnership intangible drilling costs' means any qualified expenditure described in paragraph (2)(C) of an individual which is not allocable to such individual's interest as a limited partner in a limited partnership.

"(5) ELECTION.—

"(A) IN GENERAL.—An election may be made under this subsection with respect to any qualified expenditure.

"(B) REVOCABLE ONLY WITH CONSENT.—An election under this subsection with respect to any qualified expenditure may be revoked only with the consent of the Secretary.

"(C) TIME AND MANNER.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(D) PARTNERS.—In the case of a partnership, any election under this subsection shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure.

"(6) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section)—

"(i) any deduction under paragraph (1) or (4)(A) with respect to costs which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c), and

"(ii) in the case of any credit allowable under section 38 by reason of paragraph (4)(B) which is allocable to such property, such disposition shall, for purposes of section 47, be treated as a disposition of section 38 recovery property which is not 3-year property.

"(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection), any amount allowable as a deduction under paragraph (1) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

"(7) AMOUNTS TO WHICH ELECTION APPLY NOT TREATED AS TAX PREFERENCE.—Any qualified expenditure to which an election under paragraph (1) or (4) applies shall not be treated as an item of tax preference under section 57(a)."

95 Stat. 239.
26 USC 1016.

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (23), by striking out the period at the end of paragraph (24) and

inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(25) for amounts allowed as deductions under section 58(i) (relating to optional 10-year writeoff of certain tax preferences)."

(c) CONFORMING AMENDMENTS.—

(1) Section 56 (relating to corporate minimum tax) is amended— 26 USC 56.

(A) by striking out "person" each place it appears and inserting in lieu thereof "corporation",

(B) by striking out "one-half (or in the case of a corporation, an amount equal to)" in subsection (c),

(C) by striking out "sections 72(m)(5)(B), 402(e), 408(f), 531, and 541" in subsection (c) and inserting in lieu thereof "sections 531 and 541",

(D) by striking out "31, 39, 43, and 44G" in subsection (c) and inserting in lieu thereof "39 and 44G", and 95 Stat. 293.

(E) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 56. CORPORATE MINIMUM TAX."

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

"Sec. 56. Corporate minimum tax."

(3) Section 58 (relating to rules for application of minimum taxes) is amended— 26 USC 58.

(A) by striking out subsection (a),

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the items of tax preference for any taxable year shall be apportioned between the estate or trust and the beneficiaries in accordance with regulations prescribed by the Secretary.", and

(C) in subsection (g)—

(i) by striking out "paragraphs (6) and" in paragraph (1) and inserting in lieu thereof "paragraph", and

(ii) by striking out so much of paragraph (2) as precedes the last two sentences thereof and inserting in lieu thereof the following:

"(2) CAPITAL GAINS.—For purposes of section 56, the items of tax preference set forth in section 57(a)(9) which are attributable to sources within any foreign country or possession of the United States shall not be taken into account if preferential treatment is not accorded gain from the sale or exchange of capital assets (or property treated as capital assets)."

(4) Section 5(a)(4) is amended by striking out "sections 55 and 56" and inserting in lieu thereof "section 55". 26 USC 5.

(5) Section 511(d)(2) is amended by striking out "and section 56 (as the case may be)". 26 USC 511.

(6) Subparagraph (A) of section 897(a)(2) (relating to 20-percent minimum tax on nonresident alien individuals) is amended to read as follows: 26 USC 897.

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(a)(1)

for the taxable year shall not be less than 20 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)) for the taxable year, or

"(ii) the individual's net United States real property gain for the taxable year."

26 USC 6015, 6362, 6654.

(7) Sections 6015(d)(1), 6362(b)(2)(A), and 6654(g)(1) are each amended by striking out "or 56".

26 USC 46, 53, 901.

(8)(A) Sections 46(a)(4), 53(a), and 901(a) are each amended by striking out "(relating to minimum tax for tax preferences)" and inserting in lieu thereof "(relating to corporate minimum tax)".

26 USC 936.

(B) Subparagraph (A) of section 936(a)(3) is amended by striking out "(relating to minimum tax)" and inserting in lieu thereof "(relating to corporate minimum tax)".

26 USC 173.

(9)(A) Section 173 (relating to circulation expenditures) is amended—

(i) by striking out "Notwithstanding section 263" and inserting in lieu thereof

"(a) GENERAL RULE.—Notwithstanding section 263", and

(ii) by adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i)."

26 USC 174.

(B) Subsection (e) of section 174 (relating to research and experimental expenditures) is amended—

(i) by striking out "**For adjustments**" and inserting in lieu thereof

"(1) For adjustments",

(ii) by adding at the end thereof the following new paragraph:

"(2) For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i).",

and

(iii) by striking out "CROSS REFERENCE" and inserting in lieu thereof "CROSS REFERENCES".

26 USC 616.

(C) Section 616 (relating to development expenditures) is amended by adding at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i)."

26 USC 617.

(D) Section 617 (relating to deduction of certain mining exploration expenditures) is amended by adding at the end thereof the following new subsection:

"(j) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under this section, see section 58(i)."

(10) Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph: 26 USC 7701.

"(38) JOINT RETURN.—The term 'joint return' means a single return made jointly under section 6013 by a husband and wife."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. 26 USC 55 note.

(2) SPECIAL RULE FOR PRE-1983 SECTION 56(b) TAX DEFERRALS.—The amendments made by subsection (c)(1) of this section to section 56(b) of the Internal Revenue Code of 1954 shall not apply to any net operating loss carryover from any taxable year beginning before January 1, 1983, which is attributable to any excess described in section 56(b)(1)(B) of such Code for such taxable year. 26 USC 56 note.

SEC. 202. LIMITATION ON MEDICAL DEDUCTION.

(a) GENERAL RULE.—Subsection (a) of section 213 (relating to deduction for medical, dental, etc., expenses) is amended to read as follows: 26 USC 213.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152), to the extent that such expenses exceed 5 percent of adjusted gross income."

(b) TREATMENT OF MEDICINE AND DRUGS.—

(1) IN GENERAL.—Subsection (b) of section 213 (relating to limitation with respect to medicine and drugs) is amended to read as follows:

"(b) LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin."

(2) DEFINITION OF PRESCRIBED DRUG.—Subsection (e) of section 213 is amended by inserting after paragraph (1) the following new paragraphs:

"(2) PRESCRIBED DRUG.—The term 'prescribed drug' means a drug or biological which requires a prescription of a physician for its use by an individual.

"(3) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 213 (as in effect before the amendment made by paragraph (2)) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively.

(B) Subsections (d), (e), and (f) of section 213 are redesignated as subsections (c), (d), and (e), respectively.

(C) Subsection (b) of section 105 is amended by striking out "section 213(e)" and inserting in lieu thereof "section 213(d)". 26 USC 105.

(c) EFFECTIVE DATES.— 26 USC 213 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

SEC. 203. LIMITATION ON DEDUCTION FOR NONBUSINESS CASUALTY LOSSES.

26 USC 165.

(a) GENERAL RULE.—Section 165 (relating to losses) is amended by striking out subsection (h), by redesignating subsection (i) as subsection (j), and by inserting after subsection (g) the following new subsections:

"(h) CASUALTY AND THEFT LOSSES.—

"(1) GENERAL RULE.—Any loss of an individual described in subsection (c)(3) shall be allowed for any taxable year only to the extent that—

"(A) the amount of loss to such individual arising from each casualty, or from each theft, exceeds $100, and

"(B) the aggregate amount of all such losses sustained by such individual during the taxable year (determined after application of subparagraph (A)) exceeds 10 percent of the adjusted gross income of the individual.

"(2) SPECIAL RULES.—

"(A) JOINT RETURNS.—For purposes of the $100 and 10 percent limitations described in paragraph (1), a husband and wife making a joint return for the taxable year shall be treated as one individual.

"(B) COORDINATION WITH ESTATE TAX.—No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return.

"(i) DISASTER LOSSES.—

"(1) ELECTION TO TAKE DEDUCTION FOR PRECEDING YEAR.—Notwithstanding the provisions of subsection (a), any loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974 may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

"(2) YEAR OF LOSS.—If an election is made under this subsection, the casualty resulting in the loss shall be treated for purposes of this title as having occurred in the taxable year for which the deduction is claimed.

"(3) AMOUNT OF LOSS.—The amount of the loss taken into account in the preceding taxable year by reason of paragraph (1) shall not exceed the uncompensated amount determined on the basis of the facts existing at the date the taxpayer claims the loss."

(b) CONFORMING AMENDMENT.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended—

(1) by inserting "except as provided in subsection (h)," before "losses" the first place it appears in paragraph (3) thereof, and

(2) by striking out the last three sentences.

26 USC 165 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. Such amendments shall also apply to the taxpayer's last taxable year beginning before January 1, 1983, solely for purposes of determining

the amount allowable as a deduction with respect to any loss taken into account for such year by reason of an election under section 165(i) of the Internal Revenue Code of 1954 (as amended by this section).

Subtitle B—Provisions Primarily Relating to Business

PART I—REDUCTION IN CERTAIN DEDUCTIONS AND CREDITS

SEC. 204. 15 PERCENT REDUCTION IN CERTAIN CORPORATE PREFERENCE ITEMS.

(a) IN GENERAL.—Subchapter B of chapter 1 (relating to computation of taxable income) is amended by adding at the end thereof the following new part:

"PART XI—SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS

"Sec. 291. Special rules relating to corporate preference items.

"SEC. 291. SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS. 26 USC 291.

"(a) 15-PERCENT REDUCTION IN CERTAIN PREFERENCE ITEMS, ETC.—For purposes of this subtitle, in the case of an applicable corporation—

"(1) SECTION 1250 CAPITAL GAIN TREATMENT.—In the case of section 1250 property which is disposed of during the taxable year, 15 percent of the excess (if any) of—

"(A) the amount which would be treated as ordinary income if such property was section 1245 property or section 1245 recovery property, over

"(B) the amount treated as ordinary income under section 1250,

shall be treated as gain which is ordinary income and shall be recognized notwithstanding any other provision of this title.

"(2) REDUCTION IN PERCENTAGE DEPLETION.—In the case of iron ore and coal (including lignite), the amount allowable as a deduction under section 613 with respect to any property (as defined in section 614) shall be reduced by 15 percent of the amount of the excess (if any) of—

"(A) the amount of the deduction allowable under section 613 for the taxable year (determined without regard to this paragraph), over

"(B) the adjusted basis of the property at the close of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(3) CERTAIN FINANCIAL INSTITUTION PREFERENCE ITEMS.—The amount allowable as a deduction under this chapter (determined without regard to this section) with respect to any financial institution preference item shall be reduced by 15 percent.

"(4) CERTAIN DEFERRED DISC INCOME.—If an applicable corporation is a shareholder of a DISC, in the case of taxable years beginning after December 31, 1982, section 995(b)(1)(F)(i) shall be

applied with respect to such corporation by substituting '57.5 percent' for 'one-half'.

"(5) AMORTIZATION OF POLLUTION CONTROL FACILITIES.—If an election is made under section 169 with respect to any certified pollution control facility, the amortizable basis of such facility for purposes of such section shall be reduced by 15 percent.

26 USC 169.

"(b) SPECIAL RULES FOR TREATMENT OF INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.—For purposes of this subtitle, in the case of an applicable corporation—

"(1) IN GENERAL.—The amount allowable as a deduction for any taxable year (determined without regard to this section)—

"(A) under section 263(c) in the case of an integrated oil company, or

"(B) under section 616(a) or 617,

shall be reduced by 15 percent.

"(2) Special rule for amounts not allowable as deductions under paragraph (1).—

"(A) INTANGIBLE DRILLING COSTS.—The amount not allowable as a deduction under section 263(c) for any taxable year by reason of paragraph (1) shall be allowable as a deduction ratably over the 36-month period beginning with the month in which the costs are paid or incurred.

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—In the case of any amount not allowable as a deduction under section 616(a) or 617 for any taxable year by reason of paragraph (1)—

"(i) the applicable percentage of the amount not so allowable as a deduction shall be allowable as a deduction for the taxable year in which the costs are paid or incurred and in each of the 4 succeeding taxable years, and

"(ii) such costs shall be treated, for purposes of determining the amount of the credit allowable under section 38 for the taxable year in which paid or incurred, as qualified investment (within the meaning of subsections (c) and (d) of section 46) with respect to property placed in service during such year.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (2)(B), the term 'applicable percentage' means the percentage determined in accordance with the following table:

"Taxable Year:	Applicable Percentage:
1	15
2	22
3	21
4	21
5	21.

"(4) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section) any deduction under paragraph (2)(A) with respect to intangible drilling and development costs under section 263(c) which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c).

"(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this section), any amount allowable as a deduction under paragraph (2)(B) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a). 26 USC 617.

"(C) RECAPTURE OF INVESTMENT CREDIT.—In the case of any disposition of any property to which the credit allowable under section 38 by reason of paragraph (2)(B) is allocable, such disposition shall, for purposes of section 47, be treated as a disposition of section 38 recovery property which is not 3-year property.

"(5) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means, with respect to any taxable year, any producer (within the meaning of section 4996(a)(1)) of crude oil other than an independent producer (within the meaning of section 4992(b)).

"(6) COORDINATION WITH COST DEPLETION.—The portion of the adjusted basis of any property which is attributable to intangible drilling and development costs or mining exploration and development costs shall not be taken into account for purposes of determining depletion under section 611.

"(c) SPECIAL RULES RELATING TO POLLUTION CONTROL FACILITIES.—For purposes of this subtitle—

"(1) ACCELERATED COST RECOVERY DEDUCTION.—For purposes of subclause (I) of section 168(d)(1)(A)(ii), a taxpayer shall not be treated as electing the amortization deduction under section 169 with respect to that portion of the basis not taken into account under section 169 by reason of subsection (a)(5). 95 Stat. 204.

"(2) 1250 RECAPTURE.—Subsection (a)(1) shall not apply to any section 1250 property which is part of a certified pollution control facility (within the meaning of section 169(d)(1)) with respect to which an election under section 169 was made.

"(d) SPECIAL RULE FOR REAL ESTATE INVESTMENT TRUSTS.—In the case of a real estate investment trust (as defined in section 856), the difference between the amounts described in subparagraphs (A) and (B) of subsection (a)(1) shall be reduced to the extent that a capital gain dividend (as defined in section 857(b)(3)(C), applied without regard to this section) is treated as paid out of such difference. Any capital gain dividend treated as having been paid out of such difference to a shareholder which is an applicable corporation retains its character in the hands of the shareholder as gain from the disposition of section 1250 property for purposes of applying subsection (a)(1) to such shareholder.

"(e) DEFINITIONS.—For purposes of this section—

"(1) FINANCIAL INSTITUTION PREFERENCE ITEM.—The term 'financial institution preference item' includes the following:

"(A) EXCESS RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the excess of—

"(i) the amount which would, but for this section, be allowable as a deduction for the taxable year for a reasonable addition to a reserve for bad debts, over

"(ii) the amount which would have been allowable had such institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(B) INTEREST ON DEBT TO CARRY TAX-EXEMPT OBLIGATIONS ACQUIRED AFTER DECEMBER 31, 1982.—

"(i) IN GENERAL.—In the case of a financial institution to which section 585 or 593 applies, the amount of interest on indebtedness incurred or continued to purchase or carry obligations acquired after December 31, 1982, the interest on which is exempt from taxes for the taxable year, to the extent that a deduction would (but for this paragraph) be allowable with respect to such interest for such taxable year.

"(ii) DETERMINATION OF INTEREST ALLOCABLE TO INDEBTEDNESS ON TAX-EXEMPT OBLIGATIONS.—Unless the taxpayer (under regulations prescribed by the Secretary) establishes otherwise, the amount determined under clause (i) shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as—

"(I) the taxpayer's average adjusted basis (within the meaning of section 1016) of obligations described in clause (i), bears to

"(II) such average adjusted basis for all assets of the taxpayer.

"(2) APPLICABLE CORPORATION.—For purposes of this section, the term 'applicable corporation' means any corporation other than an electing small business corporation (as defined in section 1371(b)).

"(3) SECTION 1245 AND 1250 PROPERTY.—The terms 'section 1245 property', 'section 1245 recovery property', and 'section 1250 property' have the meanings given such terms by sections 1245(a)(3), 1245(a)(5), and 1250(c), respectively."

95 Stat. 222.
26 USC 1245.

(b) COORDINATION WITH MINIMUM TAX.—Section 57(b) (relating to adjusted itemized deductions) is amended to read as follows:

26 USC 57.

"(b) APPLICATION WITH SECTION 291.—

"(1) IN GENERAL.—In the case of any item of tax preference of an applicable corporation described in—

"(A) paragraph (4) or (7) of subsection (a), or

"(B) paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal (including lignite)),

only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.

"(2) CERTAIN CAPITAL GAINS.—In determining the net capital gain of any applicable corporation for purposes of paragraph (9)(B) of subsection (a), there shall be taken into account only 71.6 percent of any gain from the sale or exchange of section 1250 property which is equal to 85 percent of the excess determined under section 291(a)(1) with respect to such property.

Ante, p. 423.

"(3) APPLICABLE CORPORATION DEFINED.—For purposes of this subsection, the term 'applicable corporation' has the meaning given such term by section 291(e)(2)."

(c) CONFORMING AMENDMENTS.—

26 USC 263.

(1) Subsection (c) of section 263 (relating to intangible drilling and development costs) is amended by adding at the end thereof the following new sentence: "This subsection shall not apply

with respect to any costs to which any deduction is allowed under section 58(i) or 291." *Ante*, pp. 417, 423.

(2) The table of parts for subchapter B of chapter 1 is amended by adding at the end thereof the following:

"Part XI. Special rules relating to corporate preference items."

(d) EFFECTIVE DATES.— 26 USC 291 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) 1250 GAIN.—Section 291(a)(1) of the Internal Revenue Code of 1954 shall apply to sales or other dispositions after December 31, 1982, in taxable years ending after such date. *Ante*, p. 423.

(3) POLLUTION CONTROL FACILITIES.—Section 291(a)(5) of such Code shall apply to property placed in service after December 31, 1982, in taxable years ending after such date.

(4) DRILLING AND MINING COSTS.—Section 291(b) of such Code shall apply to expenditures after December 31, 1982, in taxable years ending after such date.

(5) REDUCTION IN PERCENTAGE DEPLETION FOR COAL AND IRON ORE.—Section 291(a)(2) of such Code shall apply to taxable years beginning after December 31, 1983.

(6) MINIMUM TAX.—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1982, with respect to items of tax preference described in section 57(b) of such Code to which section 291 of such Code applies; except that in the case of an item described in section 291(a)(2) of such Code, such amendment shall apply to taxable years beginning after December 31, 1983. *Ante*, p. 426.

SEC. 205. AMENDMENTS TO INVESTMENT CREDIT.

(a) BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT.— 26 USC 48.

(1) IN GENERAL.—Section 48 (relating to definitions and special rules involving section 38 property) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) BASIS ADJUSTMENT TO SECTION 38 PROPERTY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a credit is determined under section 46(a)(2) with respect to section 38 property, the basis of such property shall be reduced by 50 percent of the amount of the credit so determined.

"(2) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any section 38 property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to 50 percent of such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47. "Recapture amounts."

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any credit determined under section 46(a)(2) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'.

"(4) ELECTION OF REDUCED CREDIT IN LIEU OF BASIS ADJUSTMENT FOR REGULAR PERCENTAGE.—

"(A) IN GENERAL.—If the taxpayer elects to have this paragraph apply with respect to any recovery property—

"(i) paragraphs (1) and (2) shall not apply to so much of the credit determined under section 46(a)(2) with respect to such property as is attributable to the regular percentage set forth in section 46(a)(2)(B); and

"(ii) the amount of the credit allowable under section 38 with respect to such property shall be determined under subparagraph (B).

"(B) REDUCTION IN CREDIT.—In the case of any recovery property to which an election under subparagraph (A) applies—

"(i) solely for the purposes of applying the regular percentage, the applicable percentage under subsection (c) or (d) of section 46 shall be deemed to be 100 percent, and

"(ii) notwithstanding section 46(a)(2)(B), the regular percentage shall be—

"(I) 8 percent in the case of recovery property other than 3-year property, or

"(II) 4 percent in the case of recovery property which is 3-year property.

For purposes of the preceding sentence, RRB replacement property (within the meaning of section 168(f)(3)(B)) shall be treated as property which is not 3-year property.

"(C) TIME AND MANNER OF MAKING ELECTION.—

"(i) IN GENERAL.—An election under this subsection with respect to any property shall be made on the taxpayer's return of the tax imposed by this chapter for the taxpayer's taxable year in which such property is placed in service (or in the case of property to which an election under section 46(d) applies, for the first taxable year for which qualified progress expenditures were taken into account with respect to such property).

"(ii) REVOCABLE ONLY WITH CONSENT.—An election under this subsection with respect to any property, once made, may be revoked only with the consent of the Secretary.

"(5) RECAPTURE OF REDUCTIONS.—

"(A) IN GENERAL.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation.

"(B) SPECIAL RULE FOR SECTION 1250.—For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section."

(2) ALLOWANCE OF DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDITS.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

26 USC 46.

95 Stat. 204.

26 USC 196.

"SEC. 196. DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDITS.

"(a) ALLOWANCE OF DEDUCTIONS.—If—

"(1) the amount of the credit determined under section 46(a)(2) for any taxable year exceeds the limitation provided by section 46(a)(3) for such taxable year, and 26 USC 46.

"(2) the amount of such excess has not, after the application of section 46(b), been allowed to the taxpayer as a credit under section 38 for any taxable year,

then an amount equal to 50 percent of the amount of such excess (to the extent attributable to property the basis of which is reduced under section 48(q)) not so allowed as a credit shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year in which such excess could under section 46(b) have been allowed as a credit. *Ante*, p. 427.

"(b) TAXPAYERS DYING OR CEASING TO EXIST.—If a taxpayer dies or ceases to exist prior to the first taxable year following the last taxable year in which the excess described in subsection (a) could under section 46(b) have been allowed as a credit, the amount described in subsection (a), or the proper portion thereof, shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

"(c) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any credit to which section 48(q)(3) applies, subsection (a) shall be applied without regard to the phrase '50 percent of'."

(3) BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT FOR PURPOSES OF EARNINGS AND PROFITS.—Section 312(k) (relating to effect of depreciation on earnings and profits) is amended by adding at the end thereof the following new paragraph: 26 USC 312.

"(5) BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT.—In computing the earnings and profits of a corporation for any taxable year, the allowance for depreciation (and amortization, if any) shall be computed without regard to any basis adjustment under section 48(q)."

(4) SPECIAL RULES FOR CERTAIN LEASED PROPERTY.—Section 48(d) (relating to certain leased property) is amended by adding at the end thereof the following new paragraph: 26 USC 48.

"(5) COORDINATION WITH BASIS ADJUSTMENT.—In the case of any property with respect to which an election is made under this subsection—

"(A) subsection (q) (other than paragraph (4)) shall not apply with respect to such property,

"(B) the lessee of such property shall include ratably in gross income over the shortest recovery period which could be applicable under section 168 with respect to such property an amount equal to 50 percent of the amount of the credit allowable under section 38 to the lessee with respect to such property, and

"(C) in the case of a disposition of such property to which section 47 applies, this paragraph shall be applied in accordance with regulations prescribed by the Secretary."

(5) CONFORMING AMENDMENTS.—

(A) Section 48(g) (relating to special rules for qualified rehabilitated buildings) is amended by striking out paragraph (5).

(B) Paragraph (24) of section 1016(a) (relating to adjustments to basis) is amended by striking out "section 48(g)(5)" and inserting in lieu thereof "section 48(q)" 95 Stat. 239.

(C) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 196. Deduction for certain unused investment credits."

(b) INVESTMENT CREDIT LIMITED TO 85 PERCENT OF TAX LIABILITY INSTEAD OF 90 PERCENT.—

26 USC 46.

(1) IN GENERAL.—Subparagraph (B) of section 46(a)(3) (relating to limitation based on amount of tax) is amended to read as follows:

"(B) 85 percent of so much of the liability for tax for the taxable year as exceeds $25,000."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of section 46 is amended by striking out paragraphs (7) and (8) and by redesignating paragraph (9) as paragraph (7).

(B) Clause (i) of section 46(a)(7)(B), as redesignated by subparagraph (A), is amended to read as follows:

"(i) paragraph (3)(B) shall be applied by substituting '100 percent' for '85 percent', and".

(C) Subparagraph (B) of section 46(a)(7), as redesignated by subparagraph (A), is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(c) EFFECTIVE DATES.—

26 USC 196 note.

(1) SUBSECTION (a).—

(A) GENERAL RULE.—Except as otherwise provided in this paragraph, the amendments made by subsection (a) shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(B) EXCEPTION.—The amendments made by subsection (a) shall not apply to any property which—

(i) is constructed, reconstructed, erected, or acquired pursuant to a contract which was entered into after August 13, 1981, and was, on July 1, 1982, and at all times thereafter, binding on the taxpayer,

(ii) is placed in service after December 31, 1982, and before January 1, 1986,

(iii) with respect to which an election under section 168(f)(8)(A) of such Code is not in effect at any time, and

Post, p. 442.

(iv) is not described in section 167(l)(3)(A) of such Code.

(C) SPECIAL RULE FOR INTEGRATED MANUFACTURING FACILITIES.—

(i) IN GENERAL.—In the case of any integrated manufacturing facility, the requirements of clause (i) of subparagraph (B) shall be treated as met if—

(I) the on-site construction of the facility began before July 1, 1982, and

(II) during the period beginning after August 13, 1981, and ending on July 1, 1982, the taxpayer constructed (or entered into binding contracts for the construction of) more than 20 percent of the cost of such facility.

(ii) INTEGRATED MANUFACTURING FACILITY.—For purposes of clause (i), the term 'integrated manufacturing facility' means 1 or more facilities—

(I) located on a single site,

(II) for the manufacture of 1 or more manufactured products from raw materials by the application of 2 or more integrated manufacturing processes.

(D) SPECIAL RULE FOR HISTORIC STRUCTURES.—In the case of any certified historic structure (as defined in section 48(g)(3) of the Internal Revenue Code of 1954), clause (i) of subparagraph (B) shall be applied by substituting "December 31, 1980" for "August 13, 1981." 26 USC 48.

(E) CERTAIN PROJECTS WITH RESPECT TO HISTORIC STRUCTURES.—In the case of any certified historic structure (as so defined), the requirements of clause (i) of subparagraph (B) shall be treated as met with respect to such property—

(i) if the rehabilitation begins after December 31, 1980, and before July 1, 1982, or

(ii) if—

(I) before July 1, 1982, a public offering with respect to interests in such property was registered with the Securities and Exchange Commission,

(II) before such date an application with respect to such property was filed under section 8 of the United States Housing Act of 1937, and 42 USC 1437f.

(III) such property is placed in service before July 1, 1984.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1982. 26 USC 46 note.

SEC. 206. REPEAL OF 1985 AND 1986 INCREASES IN ACCELERATED COST RECOVERY DEDUCTIONS.

(a) IN GENERAL.—Paragraph (1) of section 168(b) (relating to amount of accelerated cost recovery deduction) is amended— 95 Stat. 204.

(1) by striking out "tables" and inserting in lieu thereof "table";

(2) by striking out:

"(A) FOR PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1980, AND BEFORE JANUARY 1, 1985.—"; and

(3) by striking out subparagraphs (B) and (C).

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 168(e) (relating to property excluded from application of section) is amended—

(1) by striking out subparagraph (H); and

(2) by striking out "1986" in the heading thereof and inserting in lieu thereof "1981".

SEC. 207. SECTION 189 MADE APPLICABLE TO CERTAIN CORPORATIONS FOR NONRESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 189 is amended to read as follows: 26 USC 189.

"(a) CAPITALIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.—Except as otherwise provided in this section or in section 266 (relating to carrying charges), no deduction shall be allowed for real property construction period interest and taxes."

95 Stat. 264.

(b) EXCLUSION OF CERTAIN PROPERTY.—Subsection (d) of section 189 (relating to certain property excluded) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) residential real property (other than low income housing) acquired, constructed, or carried by a corporation other than an electing small business corporation (within the meaning of section 1371(b)), a personal holding company (within the meaning of section 542), or a foreign personal holding company (within the meaning of section 552), or".

26 USC 189.

(c) ALLOCATION OF INTEREST.—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended by adding at the end thereof the following sentence: "The Secretary shall prescribe regulations which provide for the allocation of interest to real property under construction."

(d) CONFORMING AMENDMENT.—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended—

(1) by striking out "construction period interest and taxes" and inserting in lieu thereof "real property construction period interest and taxes", and

(2) by striking out the caption thereof and inserting in lieu thereof:

"(1) REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.—".

26 USC 189 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982, with respect to construction which commences after such date.

(2) CERTAIN PLANNED CONSTRUCTION.—The amendments made by this section shall not apply with respect to construction of property which is used in a trade or business described in section 48(a)(3)(B) of the Internal Revenue Code of 1954 or which is a hospital or nursing home if—

(A) such construction is conducted pursuant to a written plan of the taxpayer which was in existence on July 1, 1982, and as to which approval from a governmental unit has been requested in writing, and

(B) such construction commences before January 1, 1984,

and shall not apply to the Alaska Natural Gas Transportation System (15 U.S.C. 719) and its related facilities.

PART II—LEASING

SEC. 208. LIMITATIONS AND ADDITIONAL REQUIREMENTS ON LEASES UNDER THE ACCELERATED COST RECOVERY SYSTEM.

(a) LIMITATIONS ON LEASES UNDER THE ACCELERATED COST RECOVERY SYSTEM.—

95 Stat. 204.
Post, p. 445.

(1) IN GENERAL.—Section 168 (relating to the accelerated cost recovery system) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATIONS RELATING TO LEASES OF QUALIFIED LEASED PROPERTY.—For purposes of this subtitle, in the case of safe harbor lease property, the following limitations shall apply:

"(1) LESSOR MAY NOT REDUCE TAX LIABILITY BY MORE THAN 50 PERCENT.—

"(A) IN GENERAL.—The aggregate amount allowable as deductions or credits for any taxable year which are allocable to all safe harbor lease property with respect to which the taxpayer is the lessor may not reduce the liability for tax of the taxpayer for such taxable year (determined without regard to safe harbor lease items) by more than 50 percent of such liability.

"(B) CARRYOVER OF AMOUNTS NOT ALLOWABLE AS DEDUCTIONS OR CREDITS.—Any amount not allowable as a deduction or credit under subparagraph (A)—

"(i) may be carried over to any subsequent taxable year, and

"(ii) shall be treated as a deduction or credit allocable to safe harbor lease property in such subsequent taxable year.

"(C) ALLOCATION AMONG DEDUCTIONS AND CREDITS.—The Secretary shall prescribe regulations for determining the amount—

"(i) of any deduction or credit allocable to safe harbor lease property for any taxable year to which subparagraph (A) applies, and

"(ii) of any carryover of any such deduction or credit under subparagraph (B) to any subsequent taxable year.

"(D) LIABILITY FOR TAX AND SAFE HARBOR LEASE ITEMS DEFINED.—For purposes of this paragraph—

"(i) LIABILITY FOR TAX DEFINED.—Except as provided in this subparagraph, the term 'liability for tax' means the tax imposed by this chapter, reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter.

"(ii) SAFE HARBOR LEASE ITEMS DEFINED.—The term 'safe harbor lease items' means any of the following items which are properly allocable to safe harbor lease property with respect to which the taxpayer is the lessor:

"(I) Any deduction or credit allowable under this chapter (other than any deduction for interest).

"(II) Any rental income received by the taxpayer from any lessee of such property.

"(III) Any interest allowable as a deduction under this chapter on indebtedness of the taxpayer (or any related person within the meaning of subsection (e)(4)(D)) which is paid or incurred to the lessee of such property (or any person so related to the lessee).

"(iii) CERTAIN TAXES NOT INCLUDED.—The term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a) (other than the tax imposed by section 56). 26 USC 53.

"(2) METHOD OF COST RECOVERY.—The deduction allowable under subsection (a) with respect to any safe harbor lease property shall be determined by using the 150 percent declining balance method, switching to the straight-line method at a time to maximize the deduction (with a half-year convention in the first recovery year and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	5 years.
5-year property	8 years.
10-year property	15 years.

"(3) INVESTMENT CREDIT ALLOWED ONLY OVER 5-YEAR PERIOD.—In the case of any credit which would otherwise be allowable under section 38 with respect to any safe harbor lease property for any taxable year (determined without regard to this paragraph), only 20 percent of the amount of such credit shall be allowable in such taxable year and 20 percent of such amount shall be allowable in each of the succeeding 4 taxable years.

"(4) NO CARRYBACKS OF CREDIT OR NET OPERATING LOSS ALLOCABLE TO ELECTED QUALIFIED LEASED PROPERTY.—

"(A) CREDIT CARRYBACKS.—In determining the amount of any credit allowable under subpart A of part IV of subchapter A of this chapter which may be carried back to any preceding taxable year—

"(i) the liability for tax for the taxable year from which any such credit is to be carried shall be reduced first by any credit not properly allocable to safe harbor lease property, and

"(ii) no credit which is properly allocable to safe harbor lease property shall be taken into account in determining the amount of any credit which may be carried back.

"(B) NET OPERATING LOSS CARRYBACKS.—The net operating loss carryback provided in section 172(b) for any taxable year shall be reduced by that portion of the amount of such carryback which is properly allocable to the items described in paragraph (1)(D)(ii) with respect to all safe harbor lease property with respect to which the taxpayer is the lessor.

26 USC 172.

"(5) LIMITATION ON DEDUCTION FOR INTEREST PAID BY THE LESSOR TO THE LESSEE.—In the case of interest described in paragraph (1)(D)(ii)(III), the amount allowable as a deduction for any taxable year with respect to such interest shall not exceed the amount which would have been computed if the rate of interest under the agreement were equal to the rate of interest in effect under section 6621 at the time the agreement was entered into.

"(6) COMPUTATION OF TAXABLE INCOME OF LESSEE FOR PURPOSES OF PERCENTAGE DEPLETION.—

"(A) IN GENERAL.—For purposes of section 613 or 613A, the taxable income of any taxpayer who is a lessee of any safe harbor lease property shall be computed as if the taxpayer was the owner of such property, except that the amount of the deduction under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

"(B) COORDINATION WITH CRUDE OIL WINDFALL PROFIT TAX.—Section 4988(b)(3)(A) shall be applied without regard to subparagraph (A).

"(7) TRANSITIONAL RULE FOR APPLICATION OF PARAGRAPH (1) TO CERTAIN TRANSACTIONS.—In the case of any deduction or credit with respect to—

"(A) any transitional safe harbor lease property (within the meaning of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982), or

"(B) any other safe harbor lease property placed in service during 1982 and to which paragraph (1) does not apply,

paragraph (1) shall not operate to disallow any such deduction or credit for the taxable year for which such deduction or credit would otherwise be allowable but deductions and credits with respect to such property shall be taken into account first in determining whether any deduction or credit is allowable under paragraph (1) with respect to any other safe harbor lease property.

"(8) SAFE HARBOR LEASE PROPERTY.—For purposes of this section, the term 'safe harbor lease property' means qualified leased property with respect to which an election under section 168(f)(8) is in effect."

(2) CONFORMING AMENDMENT.—

(A) Subparagraph (A) of section 168(f)(8) (relating to special rules for leases) is amended by inserting "except as provided in subsection (i)," before "for purposes of this subtitle". 95 Stat. 204.

(B) Subparagraph (D) of section 47(a)(5) (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new sentence: "If, prior to a disposition to which this subsection applies, any portion of any credit is not allowable with respect to any property by reason of section 168(i)(3), such portion shall be treated (for purposes of this subparagraph) as not having been used to reduce tax liability." 26 USC 47.

(b) ADDITIONAL REQUIREMENTS TO QUALIFY AS LEASE FOR PURPOSES OF ACCELERATED COST RECOVERY.—

(1) RELATED PERSONS MAY NOT QUALIFY AS LESSORS.—Subclause (I) of section 168(f)(8)(B)(i) (relating to qualified lessors) is amended by inserting "which is not a related person with respect to the lessee" before the comma at the end thereof.

(2) MAXIMUM LEASE TERM REDUCED.—Clause (iii) of section 168(f)(8)(B) (relating to term of lease) is amended to read as follows:

"(iii) the term of the lease (including any extensions) does not exceed the greater of—

"(I) 120 percent of the present class life of the property, or

"(II) the period equal to the recovery period determined with respect to such property under subsection (i)(2)."

(3) DEFINITION OF QUALIFIED LEASED PROPERTY.—Subparagraph (D) of section 168(f)(8) (defining qualified leased property) is amended to read as follows:

"(D) QUALIFIED LEASED PROPERTY DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'qualified leased property' means recovery property—

"(I) which is new section 38 property of the lessor, which is leased within 3 months after such property was placed in service, and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

"(II) which was new section 38 property of the lessee, which is leased within 3 months after such property is placed in service by the lessee, and with respect to which the adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

"(ii) ONLY 45 PERCENT OF THE LESSEE'S PROPERTY MAY BE TREATED AS QUALIFIED.—The cost basis of all safe harbor lease property (determined without regard to this clause)—

"(I) which is placed in service during any calendar year, and

"(II) with respect to which the taxpayer is a lessee,

shall not exceed an amount equal to the 45 percent of the cost basis of the taxpayer's qualified base property placed in service during such calendar year.

"(iii) ALLOCATION OF DISQUALIFIED BASIS.—The cost basis not treated as qualified leased property under clause (ii) shall be allocated to safe harbor lease property for such calendar year (determined without regard to clause (ii)) in reverse order to when the agreement described in subparagraph (A) with respect to such property was entered into.

"(iv) CERTAIN PROPERTY MAY NOT BE TREATED AS QUALIFIED LEASED PROPERTY.—The term 'qualified leased property' shall not include recovery property—

26 USC 48.

"(I) which is a qualified rehabilitated building (within the meaning of section 48(g)(1)),

"(II) which is public utility property (within the meaning of section 167(l)(3)(A)),

Ante, p. 423.

"(III) which is property with respect to which a deduction is allowable by reason of section 291(b),

"(IV) with respect to which the lessee of the property (other than property described in clause (v)) under the agreement described in subparagraph (A) is a nonqualified tax-exempt organization, or

"(V) property with respect to which the user of such property is a person (other than a United States person) not subject to United States tax on income derived from the use of such property.

"(v) QUALIFIED MASS COMMUTING VEHICLES INCLUDED.—The term 'qualified leased property' includes recovery property which is a qualified mass commuting vehicle (as defined in section 103(b)(9)) which is financed in whole or in part by obligations the interest on which is excludable under section 103(a).

"(vi) QUALIFIED BASE PROPERTY.—For purposes of this subparagraph, the term 'qualified base property' means

property placed in service during any calendar year which—

"(I) is new section 38 property of the taxpayer,

"(II) is safe harbor lease property (not described in subclause (I)) with respect to which the taxpayer is the lessee, or

"(III) is designated leased property (other than property described in subclause (I) or (II)) with respect which the taxpayer is the lessee.

Any designated leased property taken into account by any lessee under the preceding sentence shall not be taken into account by the lessor in determining the lessor's qualified base property. The lessor shall provide the lessee with such information with respect to the cost basis of such property as is necessary to carry out the purposes of this clause.

"(vii) DEFINITION OF DESIGNATED LEASED PROPERTY.—For purposes of this subparagraph, the term 'designated leased property' means property—

"(I) which is new section 38 property,

"(II) which is subject to a lease with respect to which the lessor of the property is treated (without regard to this paragraph) as the owner of the property for Federal tax purposes,

"(III) with respect to which the term of the lease to which such property is subject is more than 50 percent of the present class life (or, if no present class life, the recovery period used in subsection (i)(2)) of such property, and

"(IV) which the lessee designates on his return as designated leased property.

"(viii) DEFINITION; SPECIAL RULE.—For purposes of this subparagraph—

"(I) NEW SECTION 38 PROPERTY.—The term 'new section 38 property' has the meaning given such term by section 48(b).

"(II) PROPERTY PLACED IN SERVICE.—For purposes of this title (other than clause (i)), any property described in clause (i) to which subparagraph (A) applies shall be deemed originally placed in service not earlier than the date such property is used under the lease."

(4) DEFINITIONS AND SPECIAL RULES.—Paragraph (8) of section 168(f) (relating to special rules for leases) is amended by redesignating subparagraph (H) as subparagraph (K) and by inserting after subparagraph (G) the following new subparagraphs: 95 Stat. 204.

"(H) DEFINITIONS.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person is related to another person if both persons are members of the same affiliated group (within the meaning of subsection (a) of section 1504 and determined without regard to subsection (b) of section 1504).

"(ii) NONQUALIFIED TAX-EXEMPT ORGANIZATION.—

"(I) IN GENERAL.—The term 'nonqualified tax-exempt organization' means, with respect to any agreement to which subparagraph (A) applies, any organization (or predecessor organization which

was engaged in substantially similar activities) which was exempt from taxation under this title at any time during the 5-year period ending on the date such agreement was entered into.

"(II) SPECIAL RULE FOR FARMERS' COOPERATIVES.—The term 'nonqualified tax-exempt organization' shall not include any farmers' cooperative organization described in section 521 whether or not exempt from taxation under section 521.

26 USC 521.

"(III) SPECIAL RULE FOR PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—An organization shall not be treated as a nonqualified tax-exempt organization with respect to any property if such property is used in an unrelated trade or business (within the meaning of section 513) of such organization which is subject to tax under section 511.

"(I) TRANSITIONAL RULES FOR CERTAIN TRANSACTIONS.—

"(i) IN GENERAL.—Except as provided in clause (ii), clause (ii) of subparagraph (D) shall not apply to any transitional safe harbor lease property (within the meaning of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982).

"(ii) SPECIAL RULES.—For purposes of subparagraph (D)(ii)—

"(I) DETERMINATION OF QUALIFIED BASE PROPERTY.—The cost basis of property described in clause (i) (and other property placed in service during 1982 to which subparagraph (D)(ii) does not apply) shall be taken into account in determining the qualified base property of the taxpayer for the taxable year in which such property was placed in service.

"(II) REDUCTION IN QUALIFIED LEASED PROPERTY.—The cost basis of property which may be treated as qualified leased property under subparagraph (D)(ii) for the taxable year in which such property was placed in service (determined without regard to this subparagraph) shall be reduced by the cost basis of the property taken into account under subclause (I).

"(J) COORDINATION WITH AT RISK RULES.—

"(i) IN GENERAL.—For purposes of section 465, in the case of property placed in service after the date of the enactment of this subparagraph, if—

"(I) an activity involves the leasing of section 1245 property which is safe harbor lease property, and

"(II) the lessee of such property (as determined under this paragraph) would, but for this paragraph, be treated as the owner of such property for purposes of this title,

then the lessor (as so determined) shall be considered to be at risk with respect to such property in an amount equal to the amount the lessee is considered at risk with respect to such property (determined under section 465 without regard to this paragraph).

"(ii) SUBPARAGRAPH NOT TO APPLY TO CERTAIN SERVICE CORPORATIONS.—Clause (i) shall not apply to any lessor which is a corporation the principal function of which is the performance of services in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, athletics, or consulting.

"(iii) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE BEFORE DATE OF ENACTMENT OF THIS SUBPARAGRAPH.—This subparagraph shall apply to property placed in service before the date of enactment of this subparagraph if the provisions of section 465 did not apply to the lessor before such date but become applicable to such lessor after such date."

(c) CERTAIN LEASES BEFORE OCTOBER 20, 1981, TREATED AS QUALIFIED LEASES.—Nothing in paragraph (8) of section 168(f) of the Internal Revenue Code of 1954, or in any regulations prescribed thereunder, shall be treated as making such paragraph inapplicable to any agreement entered into before October 20, 1981, solely because under such agreement 1 party to such agreement is entitled to the credit allowable under section 38 of such Code with respect to property and another party to such agreement is entitled to the deduction allowable under section 168 of such Code with respect to such property. Section 168(f)(8)(B)(ii) of such Code shall not apply to the party entitled to such credit. 26 USC 168 note. *Post*, p. 442.

(d) EFFECTIVE DATES.— 26 USC 168 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by subsections (a) and (b) of this section shall apply to agreements entered into after July 1, 1982, or to property placed in service after July 1, 1982.

(2) TRANSITIONAL RULE FOR CERTAIN SAFE HARBOR LEASE PROPERTY.—

(A) IN GENERAL.—The amendments made by subsections (a) and (b) shall not apply to transitional safe harbor lease property.

(B) SPECIAL RULE FOR CERTAIN PROVISIONS.—Subparagraph (A) shall not apply with respect to the provisions of paragraph (6) of section 168(i) of the Internal Revenue Code of 1954 (as added by subsection (a)(1)), to the provisions of section 168(f)(8)(J) of such Code (as added by subsection (b)(4)), or to the amendment made by subsection (b)(1). *Ante*, p. 432. *Ante*, p. 437.

(3) TRANSITIONAL SAFE HARBOR LEASE PROPERTY.—For purposes of this subsection, the term "transitional safe harbor lease property" means property described in any of the following subparagraphs:

(A) IN GENERAL.—Property is described in this subparagraph if such property is placed in service before January 1, 1983, if—

(i) with respect to such property a binding contract to acquire or to construct such property was entered into by the lessee after December 31, 1980, and before July 2, 1982, or

(ii) such property was acquired by the lessee, or construction of such property was commenced by or for the lessee, after December 31, 1980, and before July 2, 1982.

(B) CERTAIN QUALIFIED LESSEES.—Property is described in this subparagraph if such property is placed in service before July 1, 1982, and with respect to which—

Post, p. 442.

(i) an agreement to which section 168(f)(8)(A) of the Internal Revenue Code of 1954 applies was entered into before August 15, 1982, and

(ii) the lessee under such agreement is a qualified lessee (within the meaning of paragraph (6)).

(C) MANUFACTURERS OF CERTAIN PRODUCTS.—Property is described in this subparagraph if such property—

(i) is used to produce a class of products (within the meaning of paragraph (6)(B)) in an industry described in paragraph (6)(A)(ii)(II) (determined without regard to the phrase "other than the taxpayer"), and

(ii) would be described in subparagraph (A) if "October 1" were substituted for "January 1".

(D) CERTAIN AIRCRAFT.—Property is described in this subparagraph if such property—

(i) is a commercial passenger aircraft (other than a helicopter), and

(ii) would be described in subparagraph (A) if "January 1, 1984" were substituted for "January 1, 1983".

For purposes of determining whether property described in this subparagraph is described in subparagraph (A), subparagraph (A)(ii) shall be applied by substituting "June 25, 1981" for "December 31, 1980" and by substituting "February 20, 1982" for "July 2, 1982" and construction of the aircraft shall be treated as having been begun during the period referred to in subparagraph (A)(ii) if during such period construction or reconstruction of a subassembly was commenced, or the stub wing join occurred.

(E) TURBINES AND BOILERS.—Property is described in this subparagraph if such property—

(i) is a turbine or boiler of a cooperative organization described in section 1381(a), and

26 USC 1381.

(ii) would be property described in subparagraph (A) if "July 1" were substituted for "January 1".

For purposes of determining whether property described in this subparagraph is described in subparagraph (A), such property shall be treated as having been acquired during the period referred to in subparagraph (A)(ii) if at least 20 percent of the cost of such property is paid during such period.

(F) PROPERTY USED IN THE PRODUCTION OF STEEL.—Property is described in this subparagraph if such property—

(i) is used by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture or production of steel, and

(ii) would be described in subparagraph (A) if "January 1, 1984" were substituted for "January 1, 1983".

(4) SPECIAL RULE FOR ANTIAVOIDANCE PROVISIONS.—The provisions of paragraph (6) of section 168(i) of such Code (as added by subsection (a)(1)), and the amendment made by subsection (b)(1), shall apply to leases entered into after February 19, 1982, in taxable years ending after such date.

Ante, p. 432.

(5) SPECIAL RULE FOR MASS COMMUTING VEHICLES.—The amendments made by this section (other than section 168(i) (1)

and (7) of such Code, as added by subsection (a)(1)) and section 209 shall not apply to qualified leased property described in section 168(f)(8)(D)(V) of such Code (as in effect after the amendments made by this section) which— *Ante*, p. 435.

(A) is placed in service before January 1, 1988, or

(B) is placed in service after such date—

(i) pursuant to a binding contract or commitment entered into before April 1, 1983, and

(ii) solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee.

(6) QUALIFIED LESSEE DEFINED.—

(A) IN GENERAL.—The term "qualified lessee" means a taxpayer which is a lessee of an agreement to which section 168(f)(8)(A) of such Code applies and which— *Post*, p. 442.

(i) had net operating losses in each of the three most recent taxable years ending before July 1, 1982, and had an aggregate net operating loss for the five most recent taxable years ending before July 1, 1982, and

(ii) which uses the property subject to the agreement to manufacture and produce within the United States a class of products in an industry with respect to which—

(I) the taxpayer produced less than 5 percent of the total number of units (or value) of such products during the period covering the three most recent taxable years of the taxpayer ending before July 1, 1982, and

(II) four or fewer United States persons (including as one person an affiliated group as defined in section 1504(a)) other than the taxpayer manufactured 85 percent or more of the total number of all units (or value) within such class of products manufactured and produced in the United States during such period. 26 USC 1504.

(B) CLASS OF PRODUCTS.—For purposes of subparagraph (A)—

(i) the term "class of products" means any of the categories designated and numbered as a "class of products" in the 1977 Census of Manufacturers compiled and published by the Secretary of Commerce under title 13 of the United States Code, and

(ii) information—

(I) compiled or published by the Secretary of Commerce, as part of or in connection with the Statistical Abstract of the United States or the Census of Manufacturers, regarding the number of units (or value) of a class of products manufactured and produced in the United States during any period, or

(II) if information under subclause (I) is not available, so compiled or published with respect to the number of such units shipped or sold by such manufacturers during any period,

shall constitute prima facie evidence of the total number of all units of such class of products manufactured and produced in the United States in such period.

(6) UNDERPAYMENTS OF TAX FOR 1982.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before October 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by chapter 1 of such Code, to the extent that such underpayment was created or increased by any provision of this section.

26 USC 6655.

SEC. 209. REPEAL OF LEASING; SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.

(a) SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.—Paragraph (8) of section 168(f) (relating to special rules for leasing) is amended to read as follows:

95 Stat. 204.

"(8) SPECIAL RULES FOR FINANCE LEASES.—

"(A) IN GENERAL.—For purposes of this title, except as provided in subsection (i), in the case of any agreement with respect to any finance lease property, the fact that—

"(i) a lessee has the right to purchase the property at a fixed price which is not less than 10 percent of the original cost of the property to the lessor, or

"(ii) the property is of a type not readily usable by any person other than the lessee,

shall not be taken into account in determining whether such agreement is a lease.

"(B) FINANCE LEASE PROPERTY DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'finance lease property' means recovery property which is subject to an agreement which meets the requirements of subparagraph (C) and—

"(I) which is new section 38 property of the lessor, which is leased within 3 months after such property was placed in service, and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

"(II) which was new section 38 property of the lessee, which is leased within 3 months after such property is placed in service by the lessee, and with respect to which the adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

"(ii) ONLY 40 PERCENT OF THE LESSEE'S PROPERTY MAY BE TREATED AS QUALIFIED.—The cost basis of all finance lease property (determined without regard to this clause)—

"(I) which is placed in service during any calendar year beginning before January 1, 1986, and

"(II) with respect to which the taxpayer is a lessee,

shall not exceed an amount equal to 40 percent of the cost basis of the taxpayer's qualified base property placed in service during such calendar year.

"(iii) ALLOCATION OF DISQUALIFIED BASIS.—The cost basis not treated as finance lease property under clause (ii) shall be allocated to finance lease property for such calendar year (determined without regard to clause (ii))

in reverse order to when the agreement described in subparagraph (A) with respect to such property was entered into.

"(iv) CERTAIN PROPERTY MAY NOT BE TREATED AS FINANCE LEASE PROPERTY.—The term 'finance lease property' shall not include recovery property—

"(I) which is a qualified rehabilitated building (within the meaning of section 48(g)(1)), 26 USC 48.

"(II) which is public utility property (within the meaning of section 167(l)(3)(A)),

"(III) which is property with respect to which a deduction is allowable by reason of section 291(b), *Ante*, p. 423.

"(IV) with respect to which the lessee of the property under the agreement described in subparagraph (A) is a nonqualified tax-exempt organization, or

"(V) property with respect to which the user of such property is a person (other than a United States person) not subject to United States tax on income derived from the use of such property.

"(v) QUALIFIED BASE PROPERTY.—For purposes of this subparagraph, the term 'qualified base property' means property placed in service during any calendar year which—

"(I) is new section 38 property of the taxpayer,

"(II) is finance lease property (not described in subclause (I)) with respect to which the taxpayer is the lessee, or

"(III) is designated leased property (other than property described in subclause (I) or (II)) with respect to which the taxpayer is the lessee.

Any designated leased property taken into account by any lessee under the preceding sentence shall not be taken into account by the lessor in determining the lessor's qualified base property. The lessor shall provide the lessee with such information with respect to the cost basis of such property as is necessary to carry out the purposes of this clause.

"(vi) DEFINITION OF DESIGNATED LEASED PROPERTY.—For purposes of this subparagraph, the term 'designated leased property' means property—

"(I) which is new section 38 property,

"(II) which is subject to a lease with respect to which the lessor of the property is treated (without regard to this paragraph) as the owner of the property for Federal tax purposes,

"(III) with respect to which the term of the lease to which such property is subject is more than 50 percent of the present class life (or, if no present class life, the recovery period under subsection (a)) of such property, and

"(IV) which the lessee designates on his return as designated leased property.

"(vii) DEFINITION; SPECIAL RULES.—For purposes of this subparagraph—

"(I) NEW SECTION 38 PROPERTY DEFINED.—The term 'new section 38 property' has the meaning given such term by section 48(b).

"(II) LESSEE LIMITATION NOT TO APPLY TO CERTAIN FARM PROPERTY.—Clause (ii) shall not apply to any property which is used for farming purposes (within the meaning of section 2032A(e)(5)) and which is placed in service during the calendar year but only if the cost basis of such property, when added to the cost basis of other finance lease property used for such purpose does not exceed $150,000 (determined under rules similar to the rules of section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982).

26 USC 2032A.

"(III) PROPERTY PLACED IN SERVICE.—For purposes of this title (other than clause (i), any finance lease property shall be deemed originally placed in service not earlier than the date such property is used under the lease.

"(C) AGREEMENTS MUST MEET CERTAIN REQUIREMENTS.—The requirements of this subparagraph are met with respect to any agreement if—

"(i) LESSOR REQUIREMENT.—Any lessor under the agreement must be—

"(I) a corporation (other than an electing small business corporation within the meaning of section 1371(b) or a personal holding company within the meaning of section 542(a)),

"(II) a partnership all of the partners of which are corporations described in subclause (I), or

"(III) a grantor trust with respect to which the grantor and all the beneficiaries of the trust are described in subclause (I) or (II).

"(ii) CHARACTERIZATION OF AGREEMENT.—The parties to the agreement characterize such agreement as a lease.

"(iii) AGREEMENT CONTAINS CERTAIN PROVISIONS.—The agreement contains the provision described in clause (i) or (ii) of subparagraph (A), or both.

"(iv) AGREEMENT OTHERWISE LEASE, ETC.—For purposes of this title (determined without regard to the provisions described in clause (iii)), the agreement would be treated as a lease and the lessor under the agreement would be treated as the owner of the property.

"(D) PARAGRAPH NOT TO APPLY TO AGREEMENTS BETWEEN RELATED PERSONS.—This paragraph shall not apply to any agreement if the lessor and lessee are both persons who are members of the same affiliated group (within the meaning of subsection (a) of section 1504 and determined without regard to subsection (b) of section 1504).

"(E) NONQUALIFIED TAX-EXEMPT ORGANIZATION.—

"(i) IN GENERAL.—The term 'nonqualified tax-exempt organization' means, with respect to any agreement to which subparagraph (A) applies, any organization (or predecessor organization which was engaged in substantially similar activities) which was exempt from

taxation under this title at any time during the 5-year period ending on the date such agreement was entered into.

"(ii) SPECIAL RULE FOR FARMERS' COOPERATIVES.—The term 'nonqualified tax-exempt organization' shall not include any farmers' cooperative organization which is described in section 521 whether or not exempt from taxation under section 521. 26 USC 521.

"(iii) SPECIAL RULE FOR PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—An organization shall not be treated as a nonqualified tax-exempt organization with respect to any property if such property is used in an unrelated trade or business (within the meaning of section 513) of such organization which is subject to taxation under section 511.

"(F) CROSS REFERENCE.—

"For special recapture in case where lessee acquires financed recovery property, see section 1245."

(b) SPECIAL LIMITATIONS ON FINANCE LEASE PROPERTY.—Subsection (i) of section 168 (relating to limitations and additional requirements with respect to leases) is amended to read as follows: *Ante*, p. 432.

"(i) LIMITATIONS RELATING TO LEASES OF FINANCE LEASE PROPERTY.—For purposes of this subtitle, in the case of finance lease property, the following limitations shall apply:

"(1) LESSOR MAY NOT REDUCE TAX LIABILITY BY MORE THAN 50 PERCENT.—

"(A) IN GENERAL.—The aggregate amount allowable as deductions or credits for any taxable year which are allocable to all finance lease property with respect to which the taxpayer is the lessor may not reduce the liability for tax of the taxpayer for such taxable year (determined without regard to finance lease items) by more than 50 percent of such liability.

"(B) CARRYOVER OF AMOUNTS NOT ALLOWABLE AS DEDUCTIONS OR CREDITS.—Any amount not allowable as a deduction or credit under subparagraph (A)—

"(i) may be carried over to any subsequent taxable year, and

"(ii) shall be treated as a deduction or credit allocable to finance lease property in such subsequent taxable year.

"(C) ALLOCATION AMONG DEDUCTIONS AND CREDITS.—The Secretary shall prescribe regulations for determining the amount—

"(i) of any deduction or credit allocable to finance lease property for any taxable year to which subparagraph (A) applies, and

"(ii) of any carryover of any such deduction or credit under subparagraph (B) to any subsequent taxable year.

"(D) LIABILITY FOR TAX AND FINANCE LEASE ITEMS DEFINED.—For purposes of this paragraph—

"(i) LIABILITY FOR TAX DEFINED.—Except as provided in this subparagraph, the term 'liability for tax' means the tax imposed by this chapter, reduced by the sum of

the credits allowable under subpart A of part IV of subchapter A of this chapter.

"(ii) FINANCE LEASE ITEMS DEFINED.—The term 'finance lease items' means any of the following items which are properly allocable to finance lease property with respect to which the taxpayer is the lessor:

"(I) Any deduction or credit allowable under this chapter.

"(II) Any rental income received by the taxpayer from any lessee of such property.

"(iii) CERTAIN TAXES NOT INCLUDED.—The term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a) (other than the tax imposed by section 56).

26 USC 53.

"(E) CERTAIN SAFE HARBOR LEASE PROPERTY TAKEN INTO ACCOUNT.—Under regulations prescribed by the Secretary, deductions and credits and safe harbor lease items which are allocable to safe harbor lease property to which this paragraph (as in effect for taxable years beginning in 1983) applies shall be taken into account for purposes of applying this paragraph.

"(2) INVESTMENT CREDIT ALLOWED ONLY OVER 5-YEAR PERIOD.—In the case of any credit which would otherwise be allowable under section 38 with respect to any finance lease property for any taxable year (determined without regard to this paragraph), only 20 percent of the amount of such credit shall be allowable in such taxable year and 20 percent of such amount shall be allowable in each of the succeeding 4 taxable years.

"(3) COMPUTATION OF TAXABLE INCOME OF LESSEE FOR PURPOSES OF PERCENTAGE DEPLETION.—

"(A) IN GENERAL.—For purposes of section 613 or 613A, the taxable income of any taxpayer who is a lessee of any financed recovery property shall be computed as if the taxpayer was the owner of such property, except that the amount of the deduction under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

"(B) COORDINATION WITH CRUDE OIL WINDFALL PROFIT TAX.—Section 4988(b)(3)(A) shall be applied without regard to subparagraph (A).

"(4) LIMITATIONS.—

"(A) TERMINATION OF CERTAIN PROVISIONS.—

"(i) PARAGRAPH (1).—Paragraph (1) shall not apply to property placed in service after September 30, 1985, in taxable years beginning after such date.

"(ii) PARAGRAPH (2).—Paragraph (2) shall not apply to property placed in service after September 30, 1985.

"(B) CERTAIN FARM PROPERTY.—This subsection shall not apply to property which is used for farming purposes (within the meaning of section 2032A(e)(5)) and which is placed in service during the taxable year but only if the cost basis of such property, when added to the cost basis of other finance lease property used for such purpose, does not exceed $150,000 (determined under rules similar to the rules of section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982)."

Ante, p. 442.

(c) DEFINITION OF NEW SECTION 38 PROPERTY.—Subsection (b) of section 48 (defining new section 38 property) is amended by adding at the end thereof the following new sentence: "For purposes of determining whether section 38 property subject to a lease is new section 38 property, such property shall be treated as originally placed in service not earlier than the date such property is used under the lease but only if such property is leased within 3 months after such property is placed in service." 26 USC 48.

(d) EFFECTIVE DATES.— 26 USC 168 note.

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply to agreements entered into after December 31, 1983.

(B) SPECIAL RULE FOR FARM PROPERTY AGGREGATING $150,000 OR LESS.—

(i) IN GENERAL.—The amendments made by subsection (a) shall also apply to any agreement entered into after July 1, 1982, and before January 1, 1984, if the property subject to such agreement is section 38 property which is used for farming purposes (within the meaning of section 2032A(e)(5)).

(ii) $150,000 LIMITATION.—The provisions of clause (i) shall not apply to any agreement if the sum of—

(I) the cost basis of the property subject to the agreement, plus

(II) the cost basis of any property subject to an agreement to which this subparagraph previously applied, which was entered into during the same calendar year, and with respect to which the lessee was the lessee of the agreement described in subclause (I) (or any related person within the meaning of section 168(e)(4)(D)),

exceeds $150,000. For purposes of subclause (II), in the case of an individual, there shall not be taken into account any agreement of any individual who is a related person involving property which is used in a trade or business of farming of such related person which is separate from the trade or business of farming of the lessee described in subclause (II).

(2) SPECIAL RULE FOR DEFINITION OF NEW SECTION 38 PROPERTY.—The amendment made by subsection (c) shall apply to property placed in service after December 31, 1983.

SEC. 210. MOTOR VEHICLE OPERATING LEASES. 26 USC 168 note.

(a) IN GENERAL.—In the case of any qualified motor vehicle agreement, the fact that such agreement contains a terminal rental adjustment clause shall not be taken into account in determining whether such agreement is a lease.

(b) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED MOTOR VEHICLE AGREEMENT.—The term "qualified motor vehicle agreement" means any agreement with respect to a motor vehicle (including a trailer)—

(A) which was entered into before—

(i) the enactment of any law, or

(ii) the publication by the Secretary of the Treasury or his delegate of any regulation,

which provides that any agreement with a terminal rental adjustment clause is not a lease,

(B) with respect to which the lessor under the agreement—

(i) is personally liable for the repayment of, or

(ii) has pledged property (but only to the extent of the net fair market value of the lessor's interest in such property), other than property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement, as security for,

all amounts borrowed to finance the acquisition of property subject to the agreement, and

(C) with respect to which the lessee under the agreement uses the property subject to the agreement in a trade or business or for the production of income.

(2) TERMINAL RENTAL ADJUSTMENT CLAUSE.—The term "terminal rental adjustment clause" means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

PART III—FOREIGN TAX

SEC. 211. FOREIGN TAX CREDIT FOR TAXES ON OIL AND GAS INCOME.

(a) AMENDMENT OF SECTION 907(c)(4) TO RECAPTURE FOREIGN OIL AND GAS EXTRACTION LOSSES BY RECHARACTERIZING LATER EXTRACTION INCOME.—Paragraph (4) of section 907(c) (relating to certain losses) is amended to read as follows:

26 USC 907.

"(4) RECAPTURE OF FOREIGN OIL AND GAS EXTRACTION LOSSES BY RECHARACTERIZING LATER EXTRACTION INCOME.—

"(A) IN GENERAL.—That portion of the income of the taxpayer for the taxable year which (but for this paragraph) would be treated as foreign oil and gas extraction income shall be treated as income (from sources without the United States) which is not foreign oil and gas extraction income to the extent of the excess of—

"(i) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, over

"(ii) so much of such aggregate amount as was recharacterized under this subparagraph for preceding taxable years beginning after December 31, 1982.

"(B) FOREIGN OIL EXTRACTION LOSS DEFINED.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'foreign oil extraction loss' means the amount by which—

"(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil and gas extraction income for such year, is exceeded by

"(II) the sum of the deductions properly apportioned or allocated thereto.

"(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account. 26 USC 172.

"(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

"(I) any foreign expropriation loss (as defined in section 172(h)) for the taxable year, or

"(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise."

(b) EXTRACTION INCOME REMOVED FROM FOREIGN OIL RELATED INCOME.—Paragraph (2) of section 907(c) (defining foreign oil related income) is amended to read as follows: 26 USC 907.

"(2) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products,

"(B) the transportation of such minerals or primary products,

"(C) the distribution or sale of such minerals or primary products,

"(D) the disposition of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), or (C), or

"(E) the performance of any other related service."

(c) REPEAL OF SEPARATE APPLICATION OF SECTION 904 TO FOREIGN OIL RELATED INCOME; AMOUNTS TREATED AS FOREIGN TAXES ON SUCH INCOME.—

(1) IN GENERAL.—Subsection (b) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"(b) FOREIGN TAXES ON FOREIGN OIL RELATED INCOME.—For purposes of this subtitle, in the case of taxes paid or accrued to any foreign country with respect to foreign oil related income, the term 'income, war profits, and excess profits taxes' shall not include any amount paid or accrued after December 31, 1982, to the extent that the Secretary determines that the foreign law imposing such amount of tax is structured, or in fact operates, so that the amount of tax imposed with respect to foreign oil related income will generally be materially greater, over a reasonable period of time, than the amount generally imposed on income that is neither foreign oil related income nor foreign oil and gas extraction income. In computing the amount not treated as tax under this subsection, such amount shall be treated as a deduction under the foreign law."

(2) REPEAL OF SEPARATE TREATMENT OF FOREIGN OIL RELATED LOSS.—Subsection (f) of section 904 (relating to recapture of overall foreign loss) is amended by striking out paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively. 26 USC 904.

(d) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS; TRANSITIONAL RULES.—

26 USC 907.

(1) TRANSITIONAL RULES.—Subsection (e) of section 907 (relating to transitional rules) is amended to read as follows:

"(e) TRANSITIONAL RULES.—

"(1) CREDITS ARISING IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1983.—The amount of taxes paid or accrued in any taxable year beginning before January 1, 1983 (hereinafter in this paragraph referred to as the 'excess credit year') which under section 904(c) or 907(f) may be deemed paid or accrued in a taxable year beginning after December 31, 1982, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982.

Ante, p. 324.

"(2) CARRYBACK OF CREDITS ARISING IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982.—The amount of the taxes paid or accrued in a taxable year beginning after December 31, 1982, which may be deemed paid or accrued under section 904(c) or 907(f) in a taxable year beginning before January 1, 1983, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982."

(2) REPEAL OF 2-PERCENT LIMITATION ON CARRYBACK AND CARRYOVER OF DISALLOWED EXTRACTION TAXES.—

(A) IN GENERAL.—Paragraph (1) of section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(i) by striking out "so much of such excess as does not exceed 2 percent of foreign oil and gas extraction income for such taxable year" and inserting in lieu thereof "such excess",

(ii) by striking out the last sentence.

(B) TECHNICAL AMENDMENTS.—

(i) Subparagraph (B) of section 907(f)(2) is amended—

(I) by striking out "on taxes paid or accrued with respect to foreign oil related income", and

(II) by striking out "with respect to such income" in clause (i).

(ii) Subparagraph (A) of section 907(f)(3) is amended by striking out "with respect to oil-related income".

(iii) Subparagraph (B) of section 907(f)(3) is amended by striking out "oil-related".

26 USC 907 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) RETENTION OF OLD SECTIONS 907(b) AND 904(f)(4) WHERE TAXPAYER HAD FOREIGN LOSS FROM AN ACTIVITY NOT RELATED TO OIL AND GAS.—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a foreign loss attributable to activities not taken into account in determining foreign oil related income (as defined in old section 907(c)(2)), such loss shall not be recaptured from

foreign oil related income more rapidly than ratably over the 8-year period beginning with the first taxable year beginning after December 31, 1982. For purposes of the preceding sentence, an "old" section is such section as in effect on the day before the date of the enactment of this Act.

SEC. 212. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) FOREIGN OIL RELATED INCOME ADDED TO CURRENTLY TAXED AMOUNTS.—Subsection (a) of section 954 (defining foreign base company income) is amended by adding at the end thereof the following new paragraph: 26 USC 954.

"(5) the foreign base company oil related income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) SPECIAL RULES.—

(1) ALLOWANCE OF DEDUCTIONS AGAINST FOREIGN BASE COMPANY OIL RELATED INCOME.—Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company shipping income" and inserting in lieu thereof ", the foreign base company shipping income, and the foreign base company oil related income".

(2) PREEMPTION OF FOREIGN BASE COMPANY OIL RELATED INCOME.—Subsection (b) of section 954 is amended by adding at the end thereof the following new paragraph:

"(8) FOREIGN BASE COMPANY OIL RELATED INCOME NOT TREATED AS ANOTHER KIND OF BASE COMPANY INCOME.—Income of a corporation which is foreign base company oil related income shall not be considered foreign base company income of such corporation under paragraph (1), (2), or (3) of subsection (a)."

(c) DEFINITION OF FOREIGN BASE COMPANY OIL RELATED INCOME.—Section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new subsection:

"(h) FOREIGN BASE COMPANY OIL RELATED INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign base company oil related income' means foreign oil related income (within the meaning of section 907(c)(2)) other than income derived from a source within a foreign country in connection with—

"(A) oil or gas which was extracted from an oil or gas well located in such foreign country, or

"(B) oil, gas, or a primary product of oil or gas which is sold by the foreign corporation or a related person for use or consumption within such country or is loaded in such country on a vessel or aircraft as fuel for such vessel or aircraft.

"(2) PARAGRAPH (1) APPLIES ONLY WHERE CORPORATION HAS PRODUCED 1,000 BARRELS PER DAY OR MORE.—

"(A) IN GENERAL.—The term 'foreign base company oil related income' shall not include any income of a foreign corporation if such corporation is not a large oil producer for the taxable year.

"(B) LARGE OIL PRODUCER.—For purposes of subparagraph (A), the term 'large oil producer' means any corporation if, for the taxable year or for the preceding taxable year, the average daily production of foreign crude oil and natural

gas of the related group which includes such corporation equaled or exceeded 1,000 barrels.

"(C) RELATED GROUP.—The term 'related group' means a group consisting of the foreign corporation and any other person who is a related person with respect to such corporation.

"(D) AVERAGE DAILY PRODUCTION OF FOREIGN CRUDE OIL AND NATURAL GAS.—For purposes of this paragraph, the average daily production of foreign crude oil or natural gas of any related group for any taxable year (and the conversion of cubic feet of natural gas into barrels) shall be determined under rules similar to the rules of section 613A except that only crude oil or natural gas from a well located outside the United States shall be taken into account."

(d) EXCEPTION FROM FOREIGN BASE COMPANY INCOME FOR CERTAIN FOREIGN CORPORATIONS NOT TO APPLY.—Paragraph (4) of section 954(b) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to foreign base company oil related income described in subsection (a)(5)." 26 USC 954.

(e) CONFORMING AMENDMENTS.—Subsection (a) of section 954 is amended by striking out "and" at the end of paragraph (3), and by striking out the period at the end of paragraph (4) and inserting in lieu thereof", and".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of United States shareholders in which, or with which, such taxable years of foreign corporations end. 26 USC 954 note.

SEC. 213. POSSESSION TAX CREDIT; INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.

(a) POSSESSION TAX CREDIT.—

(1) ACTIVE TRADE OR BUSINESS REQUIREMENT.—Paragraph (2) of section 936(a) (relating to conditions which must be satisfied) is amended— 26 USC 936.

(A) by striking out "50 percent" in subparagraph (B) and inserting in lieu thereof "65 percent", and

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

"(C) TRANSITIONAL RULE.—In applying subparagraph (B) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for "65 percent":

"For taxable years beginning in calendar year:	The percentage tax is:
1983	55
1984	60".

(2) INCOME ATTRIBUTABLE TO CERTAIN INTANGIBLE PROPERTY.—Section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end thereof the following new subsection:

"(h) TAX TREATMENT OF INTANGIBLE PROPERTY INCOME.—

"(1) IN GENERAL.—

"(A) INCOME ATTRIBUTABLE TO SHAREHOLDERS.—The intangible property income of a corporation electing the application of this section for any taxable year shall be included on a pro rata basis in the gross income of all shareholders of

such electing corporation at the close of the taxable year of such electing corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such electing corporation ends.

"(B) EXCLUSION FROM THE INCOME OF AN ELECTING CORPORATION.—Any intangible property income of a corporation electing the application of this section which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

"(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any shareholder—

"(i) who is not a United States person, or

"(ii) who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph).

"(B) TREATMENT OF NONALLOCATED INTANGIBLE PROPERTY INCOME.—For purposes of this subtitle, intangible property income of a corporation electing the application of this section which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

"(i) shall be treated as income from sources within the United States, and

"(ii) shall not be taken into account under subsection (a)(2).

"(3) INTANGIBLE PROPERTY INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'intangible property income' means the gross income of a corporation attributable to any intangible property other than intangible property which has been licensed to such corporation since prior to 1948 and is in use by such corporation on the date of the enactment of this subparagraph.

"(B) INTANGIBLE PROPERTY.—The term 'intangible property' means any—

"(i) patent, invention, formula, process, design, pattern, or know-how;

"(ii) copyright, literary, musical, or artistic composition;

"(iii) trademark, trade name, or brand name;

"(iv) franchise, license, or contract;

"(v) method, program, system, procedure, campaign, survey, study, forecast, estimate, customer list, or technical data; or

"(vi) any similar item,

which has substantial value independent of the services of any individual.

"(C) EXCLUSION OF REASONABLE PROFIT.—The term 'intangible property income' shall not include any portion of the income from the sale, exchange or other disposition of any product, or from the rendering of services, by a corporation electing the application of this section which is determined by the Secretary to be a reasonable profit on the direct and

indirect costs incurred by such electing corporation which are attributable to such income.

"(D) RELATED PERSON.—

"(i) IN GENERAL.—A person (hereinafter referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

26 USC 267.

"(II) the related person and such person are members of the same controlled group of corporations.

"(ii) SPECIAL RULES.—For purposes of clause (i)—

"(I) section 267(b) and section 707(b)(1) shall be applied by substituting '10 percent' for '50 percent', and

"(II) section 267(b)(3) shall be applied without regard to whether a person was a personal holding company or a foreign personal holding company.

"(E) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 10 percent' shall be substituted for 'at least 80 percent' and 'more than 50 percent' each place either appears in section 1563(a), and

"(ii) the determination shall be made without regard to subsections (a)(4), (b)(2), and (e)(3)(C) of section 1563.

"(4) DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—If the Secretary determines that a corporation does not satisfy a condition specified in subparagraph (A) or (B) of subsection (a)(2) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

"(i) if the condition of subsection (a)(2)(A) is not satisfied, that portion of the gross income for the period described in subsection (a)(2)(A)—

"(I) which was not derived from sources within a possession, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (a)(2)(A),

"(ii) if the condition of subsection (a)(2)(B) is not satisfied, that portion of the gross income for such period—

"(I) which was not derived from the active conduct of a trade or business within a possession, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (a)(2)(B), or

"(iii) if neither of such conditions is satisfied, that portion of the gross income which exceeds the amount

of gross income for such period which would enable such corporation to satisfy the conditions of subparagraphs (A) and (B) of subsection (a)(2).

"(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, any distribution described in subparagraph (A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

"(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLECT.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (a)(2) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

"(5) ELECTION OUT.—

"(A) IN GENERAL.—The rules contained in paragraphs (1) through (4) do not apply for any taxable year if an election pursuant to subparagraph (F) is in effect to use one of the methods specified in subparagraph (C).

"(B) ELIGIBILITY.—

"(i) REQUIREMENT OF SIGNIFICANT BUSINESS PRESENCE.—An election may be made to use one of the methods specified in subparagraph (C) with respect to a product or type of service only if an electing corporation has a significant business presence in a possession with respect to such product or type of service. An election may remain in effect with respect to such product or type of service for any subsequent taxable year only if such electing corporation maintains a significant business presence in a possession with respect to such product or type of service in such subsequent taxable year. If an election is not in effect for a taxable year because of the preceding sentence, the electing corporation shall be deemed to have revoked the election on the first day of such taxable year.

"(ii) DEFINITION.—For purposes of this subparagraph, an electing corporation has a 'significant business presence' in a possession for a taxable year with respect to a product or type of service if:

"(I) the total production costs (other than direct material costs and other than interest excluded by regulations prescribed by the Secretary) incurred by the electing corporation in the possession in producing units of that product sold or otherwise disposed of during the taxable year by the affiliated group to persons who are not members of the affiliated group are not less than 25 percent of the difference between (a) the gross receipts from sales or other dispositions during the taxable year by the affiliated group to persons who are not members of the affiliated group of such units of the product produced, in whole or in part, by the electing corporation in the possession, and (b) the direct material costs of the purchase of materials for such

units of that product by all members of the affiliated group from persons who are not members of the affiliated group; or

"(II) no less than 65 percent of the direct labor costs of the affiliated group for units of the product produced during the taxable year in whole or in part by the electing corporation or for the type of service rendered by the electing corporation during the taxable year, is incurred by the electing corporation and is compensation for services performed in the possession; or

"(III) with respect to purchases and sales by an electing corporation of all goods not produced in whole or in part by any member of the affiliated group and sold by the electing corporation to persons other than members of the affiliated group, no less than 65 percent of the total direct labor costs of the affiliated group in connection with all purchases and sales of such goods sold during the taxable year by such electing corporation is incurred by such electing corporation and is compensation for services performed in the possession.

Notwithstanding satisfaction of one of the foregoing tests, an electing corporation shall not be treated as having a significant business presence in a possession with respect to a product produced in whole or in part by the electing corporation in the possession, for purposes of an election to use the method specified in subparagraph (C)(ii), unless such product is manufactured or produced in the possession by the electing corporation within the meaning of subsection (d)(1)(A) of section 954.

26 USC 954.

"(iii) SPECIAL RULES.—

"(I) An electing corporation which produces a product or renders a type of service in a possession on the date of the enactment of this clause is not required to meet the significant business presence test in a possession with respect to such product or type of service for its taxable years beginning before January 1, 1986.

"(II) For purposes of this subparagraph, the costs incurred by an electing corporation or any other member of the affiliated group in connection with contract manufacturing by a person other than a member of the affiliated group, or in connection with a similar arrangement thereto, shall be treated as direct labor costs of the affiliated group and shall not be treated as production costs incurred by the electing corporation in the possession or as direct material costs or as compensation for services performed in the possession, except to the extent as may be otherwise provided in regulations prescribed by the Secretary.

"(iv) REGULATIONS.—The Secretary may prescribe regulations setting forth:

"(I) an appropriate transitional (but not in excess of three taxable years) significant business pres-

ence test for commencement in a possession of operations with respect to products or types of service after the date of the enactment of this clause and not described in subparagraph (B)(iii)(I),

"(II) a significant business presence test for other appropriate cases, consistent with the tests specified in subparagraph (B)(ii),

"(III) rules for the definition of a product or type of service, and

"(IV) rules for treating components produced in whole or in part by a related person as materials, and the costs (including direct labor costs) related thereto as a cost of materials, where there is an independent resale price for such components or where otherwise consistent with the intent of the substantial business presence tests.

"(C) METHODS OF COMPUTATION OF TAXABLE INCOME.—If an election of one of the following methods is in effect pursuant to subparagraph (F) with respect to a product or type of service, an electing corporation shall compute its income derived from the active conduct of a trade or business in a possession with respect to such product or type of service in accordance with the method which is elected.

"(i) COST SHARING.—

"(I) PAYMENT OF COST SHARING.—If an election of this method is in effect, the electing corporation must make a payment for its share of the cost (if any) of product area research which is paid or accrued by the affiliated group during that taxable year. Such share shall not be less than the same proportion of the cost of such product area research which the amount of 'possession sales' bears to the amount of 'total sales' of the affiliated group. The cost of product area research paid or accrued solely by the electing corporation in a taxable year (excluding amounts paid directly or indirectly to or on behalf of related persons and excluding amounts paid under any cost sharing agreements with related persons) will reduce (but not below zero) the amount of the electing corporation's cost sharing payment under this method for that year.

"(a) PRODUCT AREA RESEARCH.—For purposes of this section, the term 'product area research' includes (notwithstanding any provision to the contrary) the research, development and experimental costs, losses, expenses and other related deductions—including amounts paid or accrued for the performance of research or similar activities by another person; qualified research expenses within the meaning of section 44F(b); amounts paid or accrued for the use of, or the right to use, research or any of the items specified in subsection (h)(3)(B)(i); and a proper allowance for amounts incurred for the acquisition of any of the items specified in subsection (h)(3)(B)(i)— 95 Stat. 241.

which are properly apportioned or allocated to the same product area as that in which the electing corporation conducts its activities, and a ratable part of any such costs, losses, expenses and other deductions which cannot definitely be allocated to a particular product area.

"(b) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' shall mean the electing corporation and all other organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, within the meaning of section 482.

26 USC 482.

"(c) POSSESSION SALES.—For purposes of this section, the term 'possession sales' means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of products produced, in whole or in part, by the electing corporation in the possession which are in the same product area as is used for determining the amount of product area research, and of services rendered, in whole or in part, in the possession in such product area to persons who are not members of the affiliated group.

"(d) TOTAL SALES.—For purposes of this section, the term 'total sales' means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of all products in the same product area as is used for determining the amount of product area research, and of services rendered in such product area to persons who are not members of the affiliated group.

"(e) PRODUCT AREA.—For purposes of this section, the term 'product area' shall be defined by reference to the three-digit classification of the Standard Industrial Classification code. The Secretary may provide for the aggregation of two or more three-digit classifications where appropriate, and for a classification system other than the Standard Industrial Classification code in appropriate cases.

"(II) EFFECT OF ELECTION.—For purposes of determining the amount of its gross income derived from the active conduct of a trade or business in a possession with respect to a product produced by, or type of service rendered by, the electing corporation for a taxable year, if an election of this method is in effect, the electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of intangible property described in

subsection (h)(3)(B)(i) which is related to the units of the product produced, or type of service rendered, by the electing corporation. Such electing corporation shall not be treated as the owner (for purposes of obtaining a return thereon) of any intangible property described in subsection (h)(3)(B)(ii) through (v) (to the extent not described in subsection (h)(3)(B)(i)) or of any other nonmanufacturing intangible. Notwithstanding the preceding sentence, an electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of (a) intangible property which was developed solely by such corporation in a possession and is owned by such corporation, (b) intangible property described in subsection (h)(3)(B)(i) acquired by such corporation from a person who was not related to such corporation (or to any person related to such corporation) at the time of, or in connection with, such acquisition, and (c) any intangible property described in subsection (h)(3)(B)(ii) through (v) (to the extent not described in subsection (h)(3)(B)(i)) and other nonmanufacturing intangibles which relate to sales of units of products, or services rendered, to unrelated persons for ultimate consumption or use in the possession in which the electing corporation conducts its trade or business.

"(III) PAYMENT PROVISIONS.—

"(a) The cost sharing payment determined under subparagraph (C)(i)(I) for any taxable year shall be made to the person or persons specified in subparagraph (C)(i)(IV)(a) not later than the time prescribed by law for filing the electing corporation's return for such taxable year (including any extensions thereof). If all or part of such payment is not timely made, the amount of the cost sharing payment required to be paid shall be increased by the amount of interest that would have been due under section 6601(a) had the portion of the cost sharing payment that is not timely made been an amount of tax imposed by this title and had the last date prescribed for payment been the due date of the electing corporations return (determined without regard to any extension thereof). The amount by which a cost sharing payment determined under subparagraph (C)(i)(I) is increased by reason of the preceding sentence shall not be treated as a cost sharing payment or as interest. If failure to make timely payment is due in whole or in part to fraud or willful neglect, the electing corporation shall be deemed to have revoked the election made under subparagraph (A) on the first day of the taxable year for which the cost sharing payment was required.

26 USC 6601.

"(b) For purposes of this title, any tax of a foreign country or possession of the United States which is paid or accrued with respect to the payment or receipt of a cost sharing payment determined under subparagraph (C)(i)(I) or of an amount of increase referred to in subparagraph (C)(i)(III)(a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amounts of such tax so paid or accrued.

"(IV) SPECIAL RULES.—

"(a) The amount of the cost sharing payment determined under subparagraph (C)(i)(I), and any increase in the amount thereof in accordance with subparagraph (C)(i)(III)(a), shall not be treated as income of the recipient, but shall reduce the amount of the deductions (and the amount of reductions in earnings and profits) otherwise allowable to the appropriate domestic member or members (other than an electing corporation) of the affiliated group, or, if there is no such domestic member, to the foreign member or members of such affiliated group as the Secretary may provide under regulations.

"(b) If an election of this method is in effect, the electing corporation shall determine its intercompany pricing under the appropriate section 482 method, provided, however, that an electing corporation shall not be denied use of the resale price method for purposes of such intercompany pricing merely because the reseller adds more than an insubstantial amount to the value of the product by the use of intangible property.

26 USC 482.

"(c) The amount of qualified research expenses, within the meaning of section 44F, of any member of the controlled group of corporations (as defined in section 44F(f)) of which the electing corporation is a member shall not be affected by the cost sharing payment required under this method.

95 Stat. 241.

"(ii) PROFIT SPLIT.—

"(I) GENERAL RULE.—If an election of this method is in effect, the electing corporation's taxable income derived from the active conduct of a trade or business in a possession with respect to units of a product produced or type of service rendered, in whole or in part, by the electing corporation shall be equal to 50 percent of the combined taxable income of the affiliated group (other than foreign affiliates) derived from covered sales of units of the product produced or type of service rendered, in whole or in part, by the electing corporation in a possession.

"(II) COMPUTATION OF COMBINED TAXABLE INCOME.—Combined taxable income shall be computed separately for each product produced or type of service rendered, in whole or in part, by the electing corporation in a possession. Combined taxable income shall be computed (notwithstanding any provision to the contrary) for each such product or type of service rendered by deducting from the gross income of the affiliated group (other than foreign affiliates) derived from covered sales of such product or type of service all expenses, losses, and other deductions properly apportioned or allocated to gross income from such sales or services, and a ratable part of all expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income, which are incurred by the affiliated group (other than foreign affiliates). Notwithstanding any other provision to the contrary, in computing the combined taxable income for each such product or type of service rendered, the research, development, and experimental costs, expenses and related deductions for the taxable year which would otherwise be apportioned or allocated to the gross income of the affiliated group (other than foreign affiliates) derived from covered sales of such product produced or type of service rendered, in whole or in part, by the electing corporation in a possession, shall not be less than the same proportion of the amount of the share of product area research determined under subparagraph (C)(i)(I) (without regard to the third sentence thereof) in the product area which includes such product or type of service, that such gross income from the product or type of service bears to such gross income from all products produced and types of service rendered, in whole or part, by the electing corporation in a possession.

"(III) DIVISION OF COMBINED TAXABLE INCOME.—50 percent of the combined taxable income computed as provided in subparagraph (C)(ii)(II) shall be allocated to the electing corporation. Combined taxable income, computed without regard to the last sentence of subparagraph (C)(ii)(II), less the amount allocated to the electing corporation under the preceding sentence, shall be allocated to the appropriate domestic member or members (other than any electing corporation) of the affiliated group and shall be treated as income from sources within the United States, or, if there is no such domestic member, to a foreign member or members of such affiliated group as the Secretary may provide under regulations.

"(IV) COVERED SALES.—For purposes of this paragraph, the term 'covered sales' means sales by members of the affiliated group (other than foreign affiliates) to persons who are not members of the affiliated group or to foreign affiliates.

"(D) UNRELATED PERSON.—For purposes of this paragraph, the term 'unrelated person' means any person other than a person related within the meaning of paragraph (3)(D) to the electing corporation.

"(E) ELECTING CORPORATION.—For purposes of this subsection, the term 'electing corporation' means a domestic corporation for which an election under this section is in effect.

"(F) TIME AND MANNER OF ELECTION; REVOCATION.—

"(i) IN GENERAL.—An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made only on or before the due date prescribed by law (including extensions) for filing the tax return of the electing corporation for its first taxable year beginning after December 31, 1982. If an election of one of such methods is made, such election shall be binding on the electing corporation and such method must be used for each taxable year thereafter until such election is revoked by the electing corporation under subparagraph (F)(iii). If any such election is revoked by the electing corporation under subparagraph (F)(iii), such electing corporation may make a subsequent election under subparagraph (A) only with the consent of the Secretary.

"(ii) MANNER OF MAKING ELECTION.—An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made by filing a statement to such effect with the return referred to in subparagraph (F)(i) or in such other manner as the Secretary may prescribe by regulations.

"(iii) REVOCATION.—

"(I) Except as provided in subparagraph (F)(iii) (II), an election may be revoked for any taxable year only with the consent of the Secretary.

"(II) An election shall be deemed revoked for the year in which the electing corporation is deemed to have revoked such election under subparagraph (B)(i) or (C) (i)(III) (a).

"(iv) AGGREGATION.—

"(I) Where more than one electing corporation in the affiliated group produces any product or renders any services in the same product area, all such electing corporations must elect to compute their taxable income under the same method under subparagraph (C).

"(II) All electing corporations in the same affiliated group that produce any products or render any services in the same product area may elect, subject to such terms and conditions as the Secretary may prescribe by regulations, to compute their taxable income from export sales under a different method from that used for all other sales and services. For this purpose, export sales means all sales by the electing corporation of products to foreign persons for use or consumption outside the United States and its possessions, provided such products are manufactured or produced in the pos-

session within the meaning of subsection (d)(1)(A) of section 954, and further provided (except to the extent otherwise provided by regulations) the income derived by such foreign person on resale of such products (in the same state or in an altered state) is not included in foreign base company income for purposes of section 954(a). 26 USC 954.

"(III) All members of an affiliated group must consent to an election under this subsection at such time and in such manner as shall be prescribed by the Secretary by regulations.

"(6) TREATMENT OF CERTAIN SALES MADE AFTER JULY 1, 1982.—

"(A) IN GENERAL.—For purposes of this section, in the case of a disposition of intangible property made by a corporation after July 1, 1982, any gain or loss from such disposition shall be treated as gain or loss from sources within the United States to which paragraph (5) does not apply.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any disposition by a corporation of intangible property if such disposition is to a person who is not a related person to such corporation.

"(C) PARAGRAPH DOES NOT AFFECT ELIGIBILITY.—This paragraph shall not apply for purposes of determining whether the corporation meets the requirements of subsection (a)(2).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including rules for the application of this subsection to income from leasing of products to unrelated persons."

(b) INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.—Section 934 (relating to limitation on reduction in income tax liability incurred to the Virgin Islands) is amended— 26 USC 934.

(1) by striking out "50 percent" in subsection (b)(2) and inserting in lieu thereof "65 percent", and

(2) by adding at the end thereof the following new subsections:

"(e) TAX TREATMENT OF INTANGIBLE PROPERTY INCOME OF CERTAIN DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—

"(A) INCOME ATTRIBUTABLE TO SHAREHOLDER.—The intangible property income (within the meaning of section 936(h)(3)) for any taxable year of any domestic corporation which is described in subsection (b) and which is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1642)), shall be included on a pro rata basis in the gross income of all shareholders of such corporation at the close of the taxable year of such corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such corporation ends. *Ante*, p. 452.

"(B) EXCLUSION FROM THE INCOME OF THE CORPORATION.—Any intangible property income of a corporation described in subparagraph (A) which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

"(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX; INHABITANTS OF THE VIRGIN ISLANDS.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any shareholder—

"(i) who is not a United States person,

"(ii) who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph), or

"(iii) who is an inhabitant of the Virgin Islands.

"(B) TREATMENT OF NONALLOCATED INTANGIBLE PROPERTY INCOME.—For purposes of this subtitle, intangible property income of a corporation described in paragraph (1)(A) which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

"(i) shall be treated as income from sources within the United States, and

"(ii) shall not be taken into account for purposes of determining whether the conditions specified in paragraph (1) or (2) of subsection (b) are satisfied.

"(3) DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—If the Secretary determines that a corporation does not satisfy a condition specified in paragraph (1) or (2) of subsection (b) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

"(i) if the condition of subsection (b)(1) is not satisfied, that portion of the gross income for the period described in subsection (b)(1)—

"(I) which was not derived from sources within the Virgin Islands, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (b)(1),

"(ii) if the condition of subsection (b)(2) is not satisfied, that portion of the aggregate gross income for such period—

"(I) which was not derived from the active conduct of a trade or business within the Virgin Islands, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (b)(2), or

"(iii) if neither of such conditions is satisfied, that portion of the gross income which exceeds the amount of gross income for such period which would enable such corporation to satisfy the conditions of paragraphs (1) and (2) of subsection (b).

"(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual, an inhabitant of the Virgin Islands, or a foreign corporation, trust, or estate, any distribution described in subparagraph

(A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

"(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLECT.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (b) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

"(4) CERTAIN PROVISIONS OF SECTION 936 TO APPLY.—

"(A) IN GENERAL.—The rules contained in paragraphs (5), (6), and (7) of section 936(h) shall apply to a domestic corporation described in paragraph (1)(A) of this subsection. *Ante*, p. 452.

"(B) CERTAIN MODIFICATIONS.—For purposes of subparagraph (A), section 936(h) shall be applied by substituting wherever appropriate—

"(i) 'Virgin Islands' for 'possession', and

"(ii) qualification under paragraphs (1) and (2) of subsection (b) for qualification under section 936(a)(2).

"(f) TRANSITIONAL RULE.—In applying subsection (b)(2) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for '65 percent':

"For taxable years beginning in calendar year:	The percentage is:
1983	55
1984	60".

(c) DENIAL OF DIVIDEND RECEIVED DEDUCTION IN CASE OF A DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—Section 246 (relating to rules applying to deduction for dividends received) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection: 26 USC 246.

"(e) CERTAIN DISTRIBUTIONS TO SATISFY REQUIREMENTS.—No deduction shall be allowed under section 243(a) with respect to a dividend received pursuant to a distribution described in section 936(h)(4) or 934(e)(3)." *Ante*, pp. 452, 463.

(d) TRANSFER OF INTANGIBLES BY POSSESSION CORPORATION TREATED AS TRANSFER TO AVOID TAXES.—Section 367 (relating to foreign corporations) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection: 26 USC 367.

"(d) SPECIAL RULE RELATING TO TRANSFER OF INTANGIBLES BY POSSESSION CORPORATIONS.—

"(1) IN GENERAL.—If, after August 14, 1982, any possession corporation transfers, directly or indirectly, any intangible property (within the meaning of section 936(h)(3)(B)) to any foreign corporation, such transfer shall be treated for purposes of subsection (a) as pursuant to a plan having as one of its principal purposes the avoidance of Federal income taxes.

"(2) POSSESSION CORPORATION.—

"(A) IN GENERAL.—The term 'possession corporation' means any corporation—

"(i) to which an election under section 936 applies, or

26 USC 934.

"(ii) which is described in subsection (b) of section 934 and which is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands).

48 USC 1642.

"(B) FORMER POSSESSION CORPORATION.—A corporation shall be treated as a possession corporation with respect to any transfer if such corporation was a possession corporation (within the meaning of subparagraph (A)) at any time during the 5-year period ending on the date of such transfer.

"(3) TRANSFER BY UNITED STATES AFFILIATES.—A rule similar to the rule of paragraph (1) shall apply in the case of a direct or indirect transfer by a United States affiliate to a foreign person of intangible property which, after August 14, 1982, was being used (or held for use) by a possession corporation under an arrangement with a United States affiliate. For purposes of the preceding sentence, the term "United States affiliate" means any United States person who is a member of an affiliated group (within the meaning of section 936(h)(5)(C)(i)(I)(b)) which includes the possession corporation.

Ante, p. 452.

"(4) WAIVER AUTHORITY.—Subject to such terms and conditions as the Secretary may provide, paragraph (1) or (3) shall not apply to any case where the Secretary is satisfied that the transfer will not result in the reduction of current or future Federal income taxes."

26 USC 936 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) CERTAIN SALES MADE AFTER JULY 1, 1982.—Paragraph (6) of section 936(h) of the Internal Revenue Code of 1954, and so much of section 934 to which such paragraph applies by reason of section 934(e)(4) of such Code, shall apply to taxable years ending after July 1, 1982.

Ante, p. 463.

(3) CERTAIN TRANSFERS OF INTANGIBLES MADE AFTER AUGUST 14, 1982.—Subsection (d) shall apply to taxable years ending after August 14, 1982.

PART IV—TAX-EXEMPT OBLIGATIONS

SEC. 214. MODIFICATION OF EXEMPTION FOR SMALL ISSUES.

26 USC 103.

(a) COMPOSITE ISSUES.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraphs:

"(K) LIMITATIONS ON TREATMENT OF OBLIGATIONS AS PART OF THE SAME ISSUE.—For purposes of this paragraph, separate lots of obligations which (but for this subparagraph) would be treated as part of the same issue shall be treated as separate issues unless the proceeds of such lots are to be used with respect to 2 or more facilities—

"(i) which are located in more than 1 State, or

"(ii) which have, or will have, as the same principal user the same person or related persons.

"(L) FRANCHISES.—For purposes of subparagraph (K), a person (other than a governmental unit) shall be considered

a principal user of a facility if such person (or a group of related persons which includes such person)—

"(i) guarantees, arranges, participates in, or assists with the issuance (or pays any portion of the cost of issuance) of any obligation the proceeds of which are to be used to finance or refinance such facility, and

"(ii) provides any property, or any franchise, trademark, or trade name (within the meaning of section 1253), which is to be used in connection with such facility."

(b) SMALL ISSUE EXEMPTION NOT ALLOWED WHERE OBLIGATIONS ISSUED AS PART OF ISSUE EXEMPT FROM TAX OTHER THAN AS A SMALL ISSUE.—Paragraph (6) of section 103(b), as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph: 26 USC 103.

"(M) PARAGRAPH NOT TO APPLY IF OBLIGATIONS ISSUED WITH CERTAIN OTHER TAX-EXEMPT OBLIGATIONS.—This paragraph shall not apply to any obligation which is issued as part of an issue (other than an issue to which subparagraph (D) applies) if the interest on any other obligation which is part of such issue is excluded from gross income under any provision of law other than this paragraph."

(c) TERMINATION OF SMALL ISSUE EXEMPTION AFTER DECEMBER 31, 1986.—Paragraph (6) of section 103(b), as amended by subsections (a) and (b), is amended by adding at the end thereof the following new subparagraph:

"(N) PARAGRAPH NOT TO APPLY TO OBLIGATIONS ISSUED AFTER DECEMBER 31, 1986.—This paragraph shall not apply to any obligation issued after December 31, 1986 (including any obligation issued to refund an obligation issued on or before such date)."

(d) EXCLUSION OF CERTAIN RESEARCH EXPENDITURES FROM THE LIMITATION ON CERTAIN INDUSTRIAL DEVELOPMENT BONDS.—Subparagraph (F) of section 103(b)(6) (relating to exclusion of certain capital expenditures) is amended—

(1) by striking out "or" at the end of clause (ii),

(2) by adding "or" at the end of clause (iii), and

(3) by adding at the end thereof the following new clause:

"(iv) described in clause (i) or (ii) of section 44F(b)(2)(A) for which a deduction was allowed under section 174(a),". 95 Stat. 241.

(e) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—Paragraph (6) of section 103(b) is amended by adding at the end thereof the following new subparagraph:

"(O) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—This paragraph shall not apply to an issue if—

"(i) more than 25 percent of the proceeds of the issue are used to provide a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment; or

"(ii) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (includ-

ing any handball or racquetball court), hot tub facility, suntan facility, or racetrack."

26 USC 103 note.

(f) EFFECTIVE DATES.—

(1) COMPOSITE ISSUES; SMALL ISSUE EXEMPTION.—The amendments made by subsections (a) and (b) shall apply to obligations issued after the date of the enactment of this Act.

(2) TERMINATION.—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) RESEARCH EXPENDITURES.—The amendment made by subsection (d) shall apply with respect to expenditures made after the date of the enactment of this Act.

(4) CERTAIN FACILITIES.—The amendment made by subsection (e) shall apply to obligations issued after December 31, 1982.

SEC. 215. PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS APPLICABLE TO PRIVATE ACTIVITY BONDS.

Post, p. 596.

(a) PUBLIC APPROVAL.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) PUBLIC APPROVAL FOR INDUSTRIAL DEVELOPMENT BONDS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), an industrial development bond shall be treated as an obligation not described in subsection (a) unless the requirements of paragraph (2) of this subsection are satisfied.

"(2) PUBLIC APPROVAL REQUIREMENT.—

"(A) IN GENERAL.—An obligation shall satisfy the requirements of this paragraph if such obligation is issued as a part of an issue which has been approved by—

"(i) the governmental unit—

"(I) which issued such obligation, or

"(II) on behalf of which such obligation was issued, and

"(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area within such State in which such facility is located, only 1 such unit need approve such issue).

"(B) APPROVAL BY A GOVERNMENTAL UNIT.—For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved—

"(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

"(ii) by voter referendum of such governmental unit.

"(C) SPECIAL RULES FOR APPROVAL OF FACILITY.—If there has been public approval under subparagraph (A) of the plan of financing a facility, such approval shall constitute approval under subparagraph (A) for any issue—

"(i) which is issued pursuant to such plan within 3 years after the date of the first issue pursuant to the approval, and

"(ii) all or substantially all of the proceeds of which are to be used to finance such facility or to refund previous financing under such plan.

"(D) REFUNDING OBLIGATIONS.—No approval under subparagraph (A) shall be necessary with respect to any obligation which is issued to refund an obligation approved under subparagraph (A) (or treated as approved under subparagraph (C)) unless the maturity date of such obligation is later than the maturity date of the obligation to be refunded.

"(E) APPLICABLE ELECTED REPRESENTATIVE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable elected representative' means with respect to any governmental unit—

"(I) an elected legislative body of such unit, or

"(II) the chief elected executive officer, the chief elected State legal officer of the executive branch, or any other elected official of such unit designated for purposes of this paragraph by such chief elected executive officer or by State law.

"(ii) NO APPLICABLE ELECTED REPRESENTATIVE.—If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit—

"(I) which is the next higher governmental unit with such a representative, and

"(II) from which the authority of the governmental unit with no such representative is derived."

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Section 103 is amended by redesignating subsection (l) as subsection (m) and by adding at the end thereof the following new subsection: 26 USC 103.

"(l) INFORMATION REPORTING REQUIREMENTS FOR CERTAIN BONDS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), any industrial development bond or any other obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly—

"(A) to finance loans to individuals for educational expenses, or

"(B) by an organization described in section 501(c)(3) which is exempt from taxation by reason of section 501(a),

shall be treated as an obligation not described in paragraph (1) or (2) of subsection (a) unless such bond satisfies the requirements of paragraph (2).

"(2) INFORMATION REPORTING REQUIREMENT.—An obligation satisfies the requirement of this paragraph if the issuer submits to the Secretary, not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the obligation is issued, a statement concerning the issue of which the obligation is a part which contains—

"(A) the name and address of the issuer,

"(B) the date of issue, the amount of lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

"(C) where required, the name of the applicable elected representative who approved the issue, or a description of the voter referendum by which the issue was approved,

"(D) the name, address, and employer identification number of—

"(i) each initial principal user of any facilities provided with the proceeds of the issue,

"(ii) the common parent of any affiliated group of corporations (within the meaning of section 1504(a)) of which such initial principal user is a member, and

"(iii) if the issue is treated as a separate issue under subsection (b)(6)(K), any person treated as a principal user under subsection (b)(6)(L), and

"(E) a description of any property to be financed from the proceeds of the issue.

"(3) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statement required under paragraph (2) if there is reasonable cause for the failure to file such statement in a timely fashion."

26 USC 103. (2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(b) (defining industrial development bond) is amended by striking out "For purposes of this subsection" and inserting in lieu thereof "For purposes of this section".

26 USC 103 note. (c) EFFECTIVE DATES.—

(1) PUBLIC APPROVAL.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1982, other than obligations issued solely to refund any obligation which—

(A) was issued before July 1, 1982, and

(B) has a maturity which does not exceed 3 years.

(2) INFORMATION REPORTING.—The amendments made by subsection (b) shall apply to obligations issued after December 31, 1982 (including any obligation issued to refund an obligation issued before such date).

SEC. 216. COST RECOVERY FOR CERTAIN PROPERTY FINANCED WITH TAX-EXEMPT BONDS.

95 Stat. 204. (a) COST RECOVERY METHOD.—Subsection (f) of section 168 (relating to special rules for the accelerated cost recovery system) is amended by adding at the end thereof the following new paragraph:

"(12) LIMITATIONS ON PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, to the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest of which is exempt from taxation under section 103(a), the deduction allowed under subsection (a) (and any deduction allowable in lieu of the deduction allowable under subsection (a)) for any taxable year with respect to such property shall be determined under subparagraph (B).

"(B) RECOVERY METHOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), the amount of the deduction allowed with respect to property described in subparagraph (A) shall be determined by using the straight-line method (with a half-year convention and without regard to salvage value)

and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	3 years.
5-year property	5 years.
10-year property	10 years.
15-year public utility property	15 years.

"(ii) 15-YEAR REAL PROPERTY.—In the case of 15-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (determined on the basis of the number of months in the year in which such property was in service and without regard to salvage value) and a recovery period of 15 years.

"(C) EXCEPTIONS.—Subparagraph (A) shall not apply to any recovery property which is placed in service—

"(i) in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A), *Post*, pp. 477, 599.

"(ii) in connection with a sewage or solid waste disposal facility—

"(I) which provides sewage or solid waste disposal services for the residents of part or all of 1 or more governmental units, and

"(II) with respect to which substantially all of the sewage or solid waste processed is collected from the general public,

"(iii) as an air or water pollution control facility which is—

"(I) installed in connection with an existing facility, or

"(II) installed in connection with the conversion of an existing facility which uses oil or natural gas (or any product of oil or natural gas) as a primary fuel to a facility which uses coal as a primary fuel, or

"(iv) in connection with a facility with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974. 42 USC 5318.

"(D) EXISTING FACILITY.—For purposes of this paragraph, the term 'existing facility' means a plant or property in operation before July 1, 1982.

"(E) EXCEPTION WHERE LONGER RECOVERY PERIOD APPLICABLE.—Subparagraph (A) shall not apply to any recovery property if the recovery period which would be applicable to such property by reason of an election under subsection (b)(3) exceeds the recovery period for such property determined under subparagraph (B)."

(b) EFFECTIVE DATES.— 26 USC 168 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service after December 31, 1982, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after June 30, 1982.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this section shall not apply with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before July 1, 1982, or

(ii) with respect to which a binding agreement to incur significant expenditures was entered into before July 1, 1982.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1982 which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before July 1, 1982, the amendments made by this section shall apply only with respect to the basis in such property which has not been recovered before the date such refunding obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1983, the amendments made by this section shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before July 1, 1982.

In the case of an inducement resolution adopted by an issuing authority before July 1, 1982, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(3) CERTAIN PROJECTS FOR RESIDENTIAL REAL PROPERTY.—For purposes of clause (i) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 (as added by this section), any obligation issued to finance a project described in the table contained in paragraph (1) of section 1104(n) of the Mortgage Subsidy Bond Tax Act of 1980 shall be treated as an obligation described in section 103(b)(4)(A) of the Internal Revenue Code of 1954.

Ante, p. 470.

26 USC 103A note.

Post, pp. 477, 599.

SEC. 217. MISCELLANEOUS.

(a) EXEMPT OBLIGATIONS FOR LOCAL DISTRICT HEATING AND COOLING FACILITIES.—

95 Stat. 349.

(1) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(A) by striking out "or" at the end of subparagraph (H),

(B) by striking out the period at the end of subparagraph (I), and inserting in lieu thereof ", or", and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) local district heating or cooling facilities."

95 Stat. 349.

(2) LOCAL DISTRICT HEATING OR COOLING FACILITIES DEFINED.—Subsection (b) of section 103 is amended by redesignating paragraph (10) as paragraph (13) and by inserting after paragraph (9) the following new paragraph:

"(10) LOCAL DISTRICT HEATING OR COOLING FACILITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'local district heating or cooling facility' means property used as an integral part of a local district heating or cooling system.

"(B) LOCAL DISTRICT HEATING OR COOLING SYSTEM.—

"(i) IN GENERAL.—The term 'local district heating or cooling system' means any local system consisting of a pipeline or network (which may be connected to a heating or cooling source) providing hot water, chilled water, or steam to 2 or more users for—

"(I) residential, commercial, or industrial heating or cooling, or

"(II) process steam.

"(ii) LOCAL SYSTEM.—For purposes of this subparagraph, a local system includes facilities furnishing heating and cooling to an area consisting of a city and one contiguous county."

(3) CONFORMING AMENDMENT.—Subparagraph (C) of section 103(b)(6) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (13)". 26 USC 103.

(b) FACILITIES FOR THE LOCAL FURNISHING OF GAS.—Paragraph (4) of section 103(b) is amended by striking out "electric energy from" in the last sentence and inserting in lieu thereof "electric energy or gas from".

(c) QUALIFIED MASS COMMUTING VEHICLE.—Subparagraph (A) of section 103(b)(9) (defining qualified mass commuting vehicle) is amended— 95 Stat. 349.

(1) by inserting "ferry," after "rail car", and

(2) by inserting after "mass commuting services" in clause (ii) the phrase "(or, in the case of a ferry, mass transportation services)".

(d) POLLUTION CONTROL FACILITIES ACQUIRED BY REGIONAL POLLUTION CONTROL AUTHORITY.—Subsection (b) of section 103 is amended by inserting after paragraph (10) (as added by subsection (a)) the following new paragraph:

"(11) POLLUTION CONTROL FACILITIES ACQUIRED BY REGIONAL POLLUTION CONTROL AUTHORITIES.—

"(A) IN GENERAL.—For purposes of subparagraph (F) of paragraph (4), an obligation shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve the control of pollutants.

"(B) RESTRICTIONS.—Subparagraph (A) shall apply only if—

"(i) the amount paid, directly or indirectly, for the facilities does not exceed their fair market value,

"(ii) the fees or charges imposed, directly or indirectly, on the seller for any use of the facilities after the sale are not less than the amounts that would be charged if the facilities were financed with obligations the interest on which is not exempt from tax, and

"(iii) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes.

"(C) QUALIFIED REGIONAL POLLUTION CONTROL AUTHORITY DEFINED.—For purposes of this paragraph, the term 'qualified regional pollution control authority' means an authority which—

"(i) is a political subdivision created by State law to control air or water pollution,

"(ii) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdivisions), and

"(iii) operates air or water pollution control facilities."

26 USC 103 note. (e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 218. TREATMENT OF CERTAIN REFUNDING OBLIGATIONS.

26 USC 103. (a) GENERAL RULE.—Paragraph (1) of section 103(b) of the Internal Revenue Code of 1954 shall not apply to any qualified refunding obligation issued by a qualified issuer after the date of the enactment of this Act.

(b) QUALIFIED REFUNDING OBLIGATION.—For purposes of subsection (a), a qualified refunding obligation is any obligation issued as part of an issue if—

(1) substantially all of the proceeds of such issue are used to defease refunded bonds which were issued under a pooled security arrangement pursuant to a bond resolution which was adopted in 1974 and under which at least 20 facilities have been financed before 1978, and

(2) each refunded bond is to be retired within 6 months after the first date on which there is no premium for early retirement of such bond.

(c) QUALIFIED ISSUER.—For purposes of subsection (a), a qualified issuer is a political subdivision created by a State in 1932 which is engaged primarily in promoting economic development.

SEC. 219. LIMITATION ON MATURITY OF INDUSTRIAL DEVELOPMENT BONDS.

(a) GENERAL RULE.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(14) MATURITY MAY NOT EXCEED 120 PERCENT OF ECONOMIC LIFE.—

Ante, p. 472. "(A) GENERAL RULE.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if—

"(i) the average maturity of the obligations which are part of such issue, exceeds

"(ii) 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of such issue.

"(B) DETERMINATION OF AVERAGES.—For purposes of subparagraph (A)—

"(i) the average maturity of any issue shall be determined by taking into account the respective issue prices of the obligations which are issued as part of such issue, and

"(ii) the average reasonably expected economic life of the facilities being financed with any issue shall be

determined by taking into account the respective cost of such facilities.

"(C) SPECIAL RULES.—

"(i) DETERMINATION OF ECONOMIC LIFE.—For purposes of this paragraph, the reasonably expected economic life of any facility shall be determined as of the later of—

"(I) the date on which the obligations are issued, or

"(II) the date on which the facility is placed in service (or expected to be placed in service).

"(ii) TREATMENT OF LAND.—

"(I) LAND NOT TAKEN INTO ACCOUNT.—Except as provided in subclause (II), land shall not be taken into account under subparagraph (A)(ii).

"(II) ISSUES WHERE 25 PERCENT OR MORE OF PROCEEDS USED TO FINANCE LAND.—If 25 percent or more of the proceeds of any issue is used to finance land, such land shall be taken into account under subparagraph (A)(ii) and shall be treated as having an economic life of 50 years."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1982. 26 USC 103 note.

SEC. 220. MORTGAGE SUBSIDY BONDS.

(a) INCREASE IN AMOUNT OF MORTGAGE INTEREST LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 103A(i)(2) (relating to effective rate of mortgage interest) is amended by striking out "1 percentage point" and inserting in lieu thereof "1.125 percentage points". 26 USC 103A.

(2) CLARIFICATION OF PREPAYMENT ASSUMPTIONS.—Clause (iv) of section 103A(i)(2)(B) (relating to prepayment assumptions) is amended to read as follows:

"(iv) PREPAYMENT ASSUMPTIONS.—In determining the effective rate of interest—

"(I) it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located, and

"(II) prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments."

(3) CONFORMING AMENDMENTS.—

(A) The paragraph heading of paragraph (2) of section 103A(i) is amended by striking out "1 PERCENTAGE POINT" and inserting in lieu thereof "1.125 PERCENTAGE POINTS".

(B) Subparagraph (C) of section 103A(i)(4) is amended—

(i) by striking out "1 percentage point" in clause (ii) and inserting in lieu thereof "1.125 percentage points", and

(ii) by striking out "1 PERCENTAGE POINT" in the caption and inserting in lieu thereof "1.125 PERCENTAGE POINTS".

26 USC 103A.

(b) DISPOSITION OF NONMORTGAGE INVESTMENT IN CASE OF LOSS.—Paragraph (3) of section 103A(i) (relating to nonmortgage investment requirements) is amended by adding at the end thereof the following new subparagraph:

"(D) NO DISPOSITION IN CASE OF LOSS.—This paragraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which would be paid or credited to the mortgagors under paragraph (4)(A) (but for such sale or disposition) at the time of such sale or disposition."

(c) REQUIREMENT THAT MORTGAGORS BE FIRST TIME HOMEBUYERS.—Subsection (e) of section 103A (relating to 3-year requirement) is amended to read as follows:

"(e) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if 90 percent or more of the lendable proceeds of such issue are used to finance the residences of mortgagors who had no present ownership interest in their principal residences at any time during the 3-year period ending on the date their mortgage is executed.

"(2) EXCEPTIONS.—For purposes of paragraph (1), the proceeds of an issue which are used—

"(A) to provide financing with respect to targeted area residences,

"(B) to provide qualified home improvement loans, and

"(C) to provide qualified rehabilitation loans,

shall not be taken into account.

"(3) MORTGAGOR'S INTEREST IN RESIDENCE BEING FINANCED.—For purposes of paragraph (1), a mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account."

(d) INCREASE IN MAXIMUM PURCHASE PRICE.—Subsection (f) of section 103A (relating to purchase price requirement) is amended—

(1) by striking out "90 percent" each place it appears and inserting in lieu thereof "110 percent" and

(2) by striking out "110 percent" in paragraph (5) and inserting in lieu thereof "120 percent".

(e) TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.—Subsection (l) of section 103A (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(10) COOPERATIVE HOUSING CORPORATIONS.—

"(A) IN GENERAL.—In the case of any cooperative housing corporation—

"(i) each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy such dwelling unit by reason of his ownership of stock in the corporation, and

"(ii) any indebtedness of the corporation allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder entitled to occupy the dwelling unit.

"(B) ADJUSTMENT TO TARGETED AREA REQUIREMENT.—In the case of any issue to provide financing to a cooperative housing corporation with respect to cooperative housing not located in a targeted area, to the extent provided in regulations, such issue may be combined with 1 or more other

issues for purposes of determining whether the requirements of subsection (h) are met.

"(C) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given to such term by section 216(b)(1)." 26 USC 216.

(f) EFFECTIVE DATES.— 26 USC 103A note.

(1) IN GENERAL.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) FIRST TIME HOMEBUYER REQUIREMENT.—The amendments made by subsection (c) shall also apply to obligations issued after April 24, 1979, and before the date of the enactment of this Act but only to the extent that the proceeds of such obligations are not committed as of the date of the enactment of this Act.

SEC. 221. INDUSTRIAL DEVELOPMENT BONDS FOR CERTAIN RESIDENTIAL RENTAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended to read as follows: *Post*, p. 599.

"(A) projects for residential rental property if each obligation issued pursuant to the issue is in registered form and if at all times during the qualified project period—

"(i) 15 percent or more in the case of targeted area projects, or

"(ii) 20 percent or more in the case of any other project,

of the units in each project are to be occupied by individuals of low or moderate income,".

(b) DEFINITIONS.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by inserting after paragraph (11) the following new paragraph: *Ante*, p. 473.

"(12) PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—For purposes of paragraph (4)(A)—

"(A) TARGETED AREA PROJECT.—The term 'targeted area project' means—

"(i) a project located in a qualified census tract (within the meaning of section 103A(k)(2)), or

"(ii) an area of chronic economic distress (within the meaning of section 103A(k)(3)).

"(B) QUALIFIED PROJECT PERIOD.—The term 'qualified project period' means the period beginning on the first day on which 10 percent of the units in the project are occupied and ending on the later of—

"(i) the date which is 10 years after the date on which 50 percent of the units in the project are occupied,

"(ii) the date which is a qualified number of days after the date on which any of the units in the project are occupied, or

"(iii) the date on which any assistance provided with respect to the project under section 8 of the United States Housing Act of 1937 terminates. 42 USC 1437f.

For purposes of clause (ii), the term 'qualified number' means, with respect to an obligation described in paragraph (4)(A), 50 percent of the number of days which comprise the term of the obligation with the longest maturity. "Qualified number."

"(C) INDIVIDUALS OF LOW AND MODERATE INCOME.—Individuals of low and moderate income shall be determined by

the Secretary in a manner consistent with determinations of lower income families under section 8 of the United States Housing Act of 1937 (or if such program is terminated, under such program as in effect immediately before such termination), except that the percentage of median gross income which qualifies as low or moderate income shall be 80 percent."

42 USC 1437f.

(c) CONFORMING AMENDMENTS.—

26 USC 103.

(1) Paragraph (4) of section 103(b) is amended by striking out the second sentence thereof.

(2) Subsection (k) of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is hereby repealed.

26 USC 103A note.

(d) EFFECTIVE DATES.—

26 USC 103 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply with respect to any obligation to which the amendments made by section 1103 of the Mortgage Subsidy Bond Tax Act of 1980 do not apply by reason of section 1104 of such Act.

26 USC 103.

PART V—MERGERS AND ACQUISITIONS

Subpart A—Changes in Tax Treatment of Partial Liquidations and of Certain Distributions of Appreciated Property

SEC. 222. PARTIAL LIQUIDATIONS.

(a) SECTION 331 (WHICH PROVIDES CAPITAL GAIN OR LOSS TREATMENT FOR SHAREHOLDERS IN LIQUIDATIONS) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 331 (relating to gain or loss to shareholders in corporate liquidations) is amended to read as follows:

26 USC 331.

"(a) DISTRIBUTIONS IN COMPLETE LIQUIDATION TREATED AS EXCHANGES.—Amounts received by a shareholder in a distribution in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock."

(b) SECTION 336 (WHICH PROVIDES NONRECOGNITION OF GAIN AND LOSS ON DISTRIBUTIONS BY LIQUIDATING CORPORATION) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 336 (relating to distributions of property in liquidation) is amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation".

26 USC 336.

(c) DISTRIBUTIONS TO NONCORPORATE SHAREHOLDERS WHICH QUALIFY AS PARTIAL LIQUIDATIONS UNDER EXISTING LAW TREATED AS REDEMPTIONS.—

26 USC 302.

(1) Subsection (b) of section 302 (relating to redemptions treated as exchanges) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) REDEMPTION FROM NONCORPORATE SHAREHOLDER IN PARTIAL LIQUIDATION.—Subsection (a) shall apply to a distribution if such distribution is—

"(A) in redemption of stock held by a shareholder who is not a corporation, and

"(B) in partial liquidation of the distributing corporation."

(2) Section 302 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection: 26 USC 302.

"(e) PARTIAL LIQUIDATION DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b)(4), a distribution shall be treated as in partial liquidation of a corporation if—

"(A) the distribution is not essentially equivalent to a dividend (determined at the corporate level rather than at the shareholder level), and

"(B) the distribution is pursuant to a plan and occurs within the taxable year in which the plan is adopted or within the succeeding taxable year.

"(2) TERMINATION OF BUSINESS.—The distributions which meet the requirements of paragraph (1)(A) shall include (but shall not be limited to) a distribution which meets the requirements of subparagraphs (A) and (B) of this paragraph:

"(A) The distribution is attributable to the distributing corporation's ceasing to conduct, or consists of the assets of, a qualified trade or business.

"(B) Immediately after the distribution, the distributing corporation is actively engaged in the conduct of a qualified trade or business.

"(3) QUALIFIED TRADE OR BUSINESS.—For purposes of paragraph (2), the term 'qualified trade or business' means any trade or business which—

"(A) was actively conducted throughout the 5-year period ending on the date of the redemption, and

"(B) was not acquired by the corporation within such period in a transaction in which gain or loss was recognized in whole or in part.

"(4) REDEMPTION MAY BE PRO RATA.—Whether or not a redemption meets the requirements of subparagraphs (A) and (B) of paragraph (2) shall be determined without regard to whether or not the redemption is pro rata with respect to all of the shareholders of the corporation.

"(5) TREATMENT OF CERTAIN PASS-THRU ENTITIES.—For purposes of determining under subsection (b)(4) whether any stock is held by a shareholder who is not a corporation, any stock held by a partnership, estate, or trust shall be treated as if it were actually held proportionately by its partners or beneficiaries."

(3) Subsection (a) of section 302 is amended by striking out "paragraph (1), (2), or (3)" and inserting in lieu thereof "paragraph (1), (2), (3), or (4)".

(4) Paragraph (5) of section 302(b) (as redesignated by paragraph (1)) is amended—

(A) by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)", and

(B) by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (4)".

(d) DEFINITION AND SPECIAL RULE.—Section 346 (defining partial liquidation) is amended to read as follows: 26 USC 346.

"SEC. 346. DEFINITION AND SPECIAL RULE.

"(a) COMPLETE LIQUIDATION.—For purposes of this subchapter, a distribution shall be treated as in complete liquidation of a corpora-

tion if the distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan.

Regulations.

"(b) TRANSACTIONS WHICH MIGHT REACH SAME RESULT AS PARTIAL LIQUIDATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of subsections (a) and (b) of section 222 of the Tax Equity and Fiscal Responsibility Act of 1982 (which repeal the special tax treatment for partial liquidations) may not be circumvented through the use of section 355, 351, 337, or any other provision of law or regulations (including the consolidated return regulations)."

Ante, p. 478.

26 USC 355, 351, 337.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation":

26 USC 306.

(A) Paragraph (2) of section 306(b) (relating to exceptions).

26 USC 331.

(B) Subsection (b) of section 331 (relating to nonapplication of section 301).

26 USC 334.

(C) Subsection (a) of section 334 (relating to basis of property received in liquidations).

26 USC 336.

(D) Paragraph (1) of section 336(b) (relating to distributions of LIFO inventory).

26 USC 306.

(2) Subparagraph (B) of section 306(b)(1) (relating to exception for redemptions) is amended by striking out "section 302(b)(3)" and inserting in lieu thereof "paragraph (3) or (4) of section 302(b)".

26 USC 312.

(3) Subsection (e) of section 312 (relating to special rule for partial liquidation and certain redemptions) is amended—

(A) by striking out "in partial liquidation (whether before, on, or after June 22, 1954) or"; and

(B) by striking out "PARTIAL LIQUIDATIONS AND" in the heading thereof.

26 USC 338.

(4) Section 338 (as in effect on the day before the date of the enactment of this Act) is hereby repealed.

26 USC 341.

(5) Paragraph (2) of section 341(a) (relating to collapsible corporations) is amended to read as follows:

"(2) a distribution—

"(A) in complete liquidation of a collapsible corporation if such distribution is treated under this part as in part or full payment in exchange for stock, or

"(B) in partial liquidation (within the meaning of section 302(e)) of a collapsible corporation if such distribution is treated under section 302(b)(4) as in part or full payment in exchange for the stock, and".

Ante, p. 479.

Ante, p. 478.

26 USC 543.

(6) Paragraph (1) of section 543(a) (relating to personal holding company income) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) dividends to which section 302(b)(4) would apply if the corporation were an individual."

26 USC 562.

(7) Paragraph (1) of section 562(b) (relating to distributions in liquidation) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), a liquidation includes a redemption of stock to which section 302 applies."

(8)(A) The heading and table of sections for subpart D of part II of subchapter C of chapter 1 are amended to read as follows:

"Subpart D—Definition and Special Rule

"Sec. 346. Definition and special rule."

(B) The item relating to subpart D in table of subparts for such part II is amended to read as follows:

"Subpart D—Definition and special rule."

(f) EFFECTIVE DATES.— 26 USC 302 note.

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after August 31, 1982.

(2) EXCEPTIONS.—

(A) RULING REQUESTS.—The amendments made by this section shall not apply to distributions made by any corporation if—

(i)(I) on July 22, 1982, there was a ruling request by such corporation pending with the Internal Revenue Service as to whether such distributions would qualify as a partial liquidation, or

(II) within the period beginning on July 12, 1981, and ending on July 22, 1982, the Internal Revenue Service granted a ruling to such corporation that the distributions would qualify as a partial liquidation, and

(ii) such distributions are pursuant to a plan of partial liquidation adopted before October 1, 1982 (or, if later, 90 days after the date on which the Internal Revenue Service granted a ruling pursuant to the request described in clause (i)(I)).

(B) PLANS ADOPTED BEFORE JULY 23, 1982.—The amendments made by this section shall not apply to distributions made pursuant to a plan of partial liquidation adopted before July 23, 1982.

(C) CONTROL ACQUIRED AFTER 1981 AND BEFORE JULY 23, 1982.—The amendments made by this section shall not apply to distributions made pursuant to a plan of partial liquidation adopted before October 1, 1982, where control of the corporation making the distributions was acquired after December 31, 1981, and before July 23, 1982.

(D) TENDER OFFER OR BINDING CONTRACT OUTSTANDING ON JULY 22, 1982.—

(i) IN GENERAL.—The amendments made by this section shall not apply to distributions made by a corporation if—

(I) such distributions are pursuant to a plan of liquidation adopted before October 1, 1982, and

(II) control of such corporation was acquired after July 22, 1982, pursuant to a tender offer or binding contract outstanding on such date.

(ii) EXTENSION OF TIME FOR ADOPTING PLAN WHERE ACQUISITION SUBJECT TO FEDERAL REGULATORY APPROVAL.—If the acquisition described in clause (i)(II) is subject to approval by a Federal regulatory agency, clause (i) shall be applied by substituting for "October 1, 1982" the date which is 90 days after the date on

which approval by the Federal regulatory agency of such acquisition becomes final.

(iii) SPECIAL RULE WHERE OFFER SUBJECT TO APPROVAL BY FOREIGN REGULATORY BODY.—In any case where an offer to acquire stock in a corporation was subject to intervention by a foreign regulatory body and a public announcement of such an offer resulted in the intervention by such foreign regulatory body before July 23, 1982—

(I) such public announcement shall be treated as a tender offer, and

(II) clause (i) shall be applied by substituting for "October 1, 1982" the date which is 90 days after the date on which such regulatory body approves a public offer to acquire stock in such corporation.

(iv) SPECIAL RULE WHERE ONE-THIRD OF SHARES ACQUIRED DURING MARCH AND APRIL 1982.—If—

(I) one-third or more of the shares of a corporation were acquired by another corporation during March and April 1982, and

(II) during March or April 1982, the acquiring corporation filed with the Federal Trade Commission notification of its intent to acquire control of the acquired corporation,

subclause (II) of clause (i) shall not apply with respect to distributions made by the acquired corporation.

(E) INSURANCE COMPANIES.—The amendments made by this section shall not apply to distributions made by an insurance company pursuant to a plan of partial liquidation adopted before October 1, 1982, where control was acquired by the distributee or its parent after December 31, 1980, and before July 23, 1982, and the conduct of the insurance business by the distributee is conditioned on approval by a State regulatory authority.

"Control." For purposes of this paragraph, the term "control" has the meaning given to such term by section 368(c) of the Internal Revenue Code of 1954.

26 USC 368.

(3) APPROVAL OF PLAN BY BOARD OF DIRECTORS.—For purposes of—

(A) paragraph (2), and

(B) applying section 346(a)(2) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) to distributions to which (but for paragraph (2)) the amendments made by this section would apply,

a plan of liquidation shall be treated as adopted when approved by the corporation's board of directors.

(4) COORDINATION WITH AMENDMENTS MADE BY SECTION 224.—

Post, p. 485.

For purposes of section 338(e)(2)(C) of the Internal Revenue Code of 1954 (as added by section 224), any property acquired in a distribution to which the amendments made by this section do not apply by reason of paragraph (2) shall be treated as acquired before September 1, 1982.

SEC. 223. DISTRIBUTION OF APPRECIATED PROPERTY IN REDEMPTION OF STOCK.

(a) AMENDMENTS TO CERTAIN EXCEPTIONS TO RECOGNITION OF GAIN.—

(1) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 311(d)(2) (relating to appreciated property used to redeem stock) are amended to read as follows: 26 USC 311.

"(A) a distribution to a corporate shareholder if the basis of the property distributed is determined under section 301(d)(2);

"(B) a distribution to which section 302(b)(4) applies and which is made with respect to qualified stock; *Ante*, p. 478.

"(C) a distribution of stock or an obligation of a corporation if the requirements of paragraph (2) of subsection (e) are met with respect to the distribution;".

(2) DEFINITIONS AND SPECIAL RULES.—Section 311 is amended by adding at the end thereof the following new subsection: 26 USC 311.

"(e) DEFINITIONS AND SPECIAL RULES FOR SUBSECTION (d)(2).—For purposes of subsection (d)(2) and this subsection—

"(1) QUALIFIED STOCK.—

"(A) IN GENERAL.—The term 'qualified stock' means stock held by a person (other than a corporation) who at all times during the lesser of—

"(i) the 5-year period ending on the date of distribution, or

"(ii) the period during which the distributing corporation (or a predecessor corporation) was in existence,

held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

"(B) DETERMINATION OF STOCK HELD.—Section 318 shall apply in determining ownership of stock under subparagraph (A); except that, in applying section 318(a)(1), the term 'family' includes any individual described in section 267(c)(4) and any spouse of any such individual.

"(2) DISTRIBUTIONS OF STOCK OR OBLIGATIONS OF CONTROLLED CORPORATIONS.—

"(A) REQUIREMENTS.—A distribution of stock or an obligation of a corporation (hereinafter in this paragraph referred to as the 'controlled corporation') meets the requirements of this paragraph if—

"(i) such distribution is made with respect to qualified stock,

"(ii) substantially all of the assets of the controlled corporation consists of the assets of 1 or more qualified businesses,

"(iii) no substantial part of the controlled corporation's nonbusiness assets were acquired from the distributing corporation, in a transaction to which section 351 applied or as a contribution to capital, within the 5-year period ending on the date of the distribution, and

"(iv) more than 50 percent in value of the outstanding stock of the controlled corporation is distributed by the distributing corporation with respect to qualified stock.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business which—

"(I) was actively conducted throughout the 5-year period ending on the date of the distribution, and

"(II) was not acquired by any person within such period in a transaction in which gain or loss was recognized in whole or in part.

"(ii) NONBUSINESS ASSET.—The term 'nonbusiness asset' means any asset not used in the active conduct of a trade or business."

26 USC 311.

(3) CONFORMING AMENDMENT.—Section 311(d)(2) is amended—

(A) by inserting "and" at the end of subparagraph (E),

(B) by striking out the semicolon and "and" at the end of subparagraph (F) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (G).

26 USC 311 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to distributions after August 31, 1982.

(2) DISTRIBUTIONS PURSUANT TO RULING REQUESTS BEFORE JULY 23, 1982.—In the case of a ruling request under section 311(d)(2)(A) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) made before July 23, 1982, the amendments made by this section shall not apply to distributions made—

(A) pursuant to a ruling granted pursuant to such request, and

(B) within 90 days after the date of such ruling.

(3) DISTRIBUTIONS PURSUANT TO FINAL JUDGMENTS OF COURT.—In the case of a final judgment described in section 311(d)(2)(C) of such Code (as in effect before the amendments made by this section) rendered before July 23, 1982, the amendments made by this section shall not apply to distributions made before January 1, 1986, pursuant to such judgment.

(4) CERTAIN DISTRIBUTIONS WITH RESPECT TO STOCK ACQUIRED BEFORE MAY 1982.—The amendments made by this section shall not apply to distributions—

(A) which meet the requirements of section 311(d)(2)(A) of such Code (as in effect on the day before the date of the enactment of this Act),

(B) which are made on or before August 31, 1983, and

(C) which are made with respect to stock acquired after 1980 and before May 1982.

(5) DISTRIBUTIONS OF TIMBERLAND WITH RESPECT TO STOCK OF FOREST PRODUCTS COMPANY.—If—

(A) a forest products company distributes timberland to a shareholder in redemption of the common and preferred stock in such corporation held by such shareholder,

(B) section 311(d)(2)(A) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) would have applied to such distributions, and

(C) such distributions are made pursuant to 1 of 2 options contained in a contract between such company and such shareholder which is binding on August 31, 1982, and at all times thereafter,

then such distributions of timberland having an aggregate fair market value on August 31, 1982, not in excess of $10,000,000 shall be treated as distributions to which section 311(d)(2)(A) of such Code (as in effect before the date of the enactment of this Act) applies.

Subpart B—Certain Stock Purchases Treated as Asset Purchases

SEC. 224. CERTAIN STOCK PURCHASES TREATED AS ASSET PURCHASES.

(a) GENERAL RULE.—Subpart B of part II of subchapter C of chapter 1 (relating to effects on corporation) is amended by adding at the end thereof the following new section:

"SEC. 338. CERTAIN STOCK PURCHASES TREATED AS ASSET ACQUISITIONS. 26 USC 338.

"(a) GENERAL RULE.—For purposes of this subtitle, if a purchasing corporation makes an election under this section (or is treated under subsection (e) as having made such an election), then, in the case of any qualified stock purchase, the target corporation—

"(1) shall be treated as having sold all of its assets at the close of the acquisition date in a single transaction to which section 337 applies, and

"(2) shall be treated as a new corporation which purchased all of the assets referred to in paragraph (1) as of the beginning of the day after the acquisition date.

"(b) PRICE AT WHICH DEEMED SALE MADE.—

"(1) IN GENERAL.—For purposes of subsection (a), the assets of the target corporation shall be treated as sold (and purchased) at an amount equal to—

"(A) the grossed-up basis of the purchasing corporation's stock in the target corporation on the acquisition date,

"(B) properly adjusted under regulations prescribed by the Secretary for liabilities of the target corporation and other relevant items.

"(2) GROSSED-UP BASIS.—For purposes of paragraph (1), the grossed-up basis shall be an amount equal to the basis of the purchasing corporation's stock in the target corporation on the acquisition date multiplied by a fraction—

"(A) the numerator of which is 100 percent, and

"(B) the denominator of which is the percentage of stock (by value) of the target corporation held by the purchasing corporation on the acquisition date.

"(3) ALLOCATION AMONG ASSETS.—The amount determined under paragraph (1) shall be allocated among the assets of the target corporation under regulations prescribed by the Secretary

"(c) SPECIAL RULES.—

"(1) COORDINATION WITH SECTION 337 WHERE PURCHASING CORPORATION HOLDS LESS THAN 100 PERCENT OF STOCK.—If during the 1-year period beginning on the acquisition date the maximum percentage (by value) of stock in the target corporation held by the purchasing corporation is less than 100 percent, then in applying section 337 for purposes of subsection (a)(1), the nonrecognition of gain or loss shall be limited to an amount determined by applying such maximum percentage to such gain or loss. The preceding sentence shall not apply if the target corporation is liquidated during such 1-year period.

"(2) CERTAIN REDEMPTIONS WHERE ELECTION MADE.—If, in connection with a qualified stock purchase with respect to which an election is made under this section, the target corporation makes a distribution in complete redemption of all of the stock of a shareholder which qualifies under section 302(b)(3) (determined without regard to the application of section 302(c)(2)(A)(ii)), section 336 shall apply to such distribution as if it were a distribution in complete liquidation.

26 USC 302.

"(d) PURCHASING CORPORATION; TARGET CORPORATION; QUALIFIED STOCK PURCHASE.—For purposes of this section—

"(1) PURCHASING CORPORATION.—The term 'purchasing corporation' means any corporation which makes a qualified stock purchase of stock of another corporation.

"(2) TARGET CORPORATION.—The term 'target corporation' means any corporation the stock of which is acquired by another corporation in a qualified stock purchase.

"(3) QUALIFIED STOCK PURCHASE.—The term 'qualified stock purchase' means any transaction or series of transactions in which stock of 1 corporation possessing—

"(A) at least 80 percent of total combined voting power of all classes of stock entitled to vote, and

"(B) at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends),

is acquired by another corporation by purchase during the 12-month acquisition period.

"(e) DEEMED ELECTION WHERE PURCHASING CORPORATION ACQUIRES ASSET OF TARGET CORPORATION.—

"(1) IN GENERAL.—A purchasing corporation shall be treated as having made an election under this section with respect to any target corporation if, at any time during the consistency period, it acquires any asset of the target corporation (or a target affiliate).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any acquisition by the purchasing corporation if—

"(A) such acquisition is pursuant to a sale by the target corporation (or the target affiliate) in the ordinary course of its trade or business,

"(B) the basis of the property acquired is determined (in whole or in part) by reference to the adjusted basis of such property in the hands of the person from whom acquired,

"(C) such acquisition was before September 1, 1982,

"(D) to the extent provided in regulations, the property acquired is located outside the United States, or

"(E) such acquisition is described in regulations prescribed by the Secretary.

"(3) ANTI-AVOIDANCE RULE.—Whenever necessary to carry out the purpose of this subsection and subsection (f), the Secretary may treat stock acquisitions which are pursuant to a plan and which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3) as qualified stock purchases.

"(f) CONSISTENCY REQUIRED FOR ALL STOCK ACQUISITIONS FROM SAME AFFILIATED GROUP.—If a purchasing corporation makes qualified stock purchases with respect to the target corporation and 1 or more target affiliates during any consistency period, then (except as otherwise provided in subsection (e))—

"(1) any election under this section with respect to the first such purchase shall apply to each other such purchase, and

"(2) no election may be made under this section with respect to the second or subsequent such purchase if such an election was not made with respect to the first such purchase.

"(g) ELECTION.—

"(1) WHEN MADE.—Except as otherwise provided in regulations, an election under this section shall be made not later than 75 days after the acquisition date.

"(2) MANNER.—An election by the purchasing corporation under this section shall be made in such manner as the Secretary shall by regulations prescribe.

"(3) ELECTION IRREVOCABLE.—An election by a purchasing corporation under this section, once made, shall be irrevocable.

"(h) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) 12-MONTH ACQUISITION PERIOD.—The term '12-month acquisition period' means the 12-month period beginning with the date of the first acquisition by purchase of stock included in a qualified stock purchase.

"(2) ACQUISITION DATE.—The term 'acquisition date' means, with respect to any corporation, the first day on which there is a qualified stock purchase with respect to the stock of such corporation.

"(3) PURCHASE.—

"(A) IN GENERAL.—The term 'purchase' means any acquisition of stock, but only if—

"(i) the basis of the stock in the hands of the purchasing corporation is not determined (I) in whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired, or (II) under section 1014(a) (relating to property acquired from a decedent), 26 USC 1014.

"(ii) the stock is not acquired in an exchange to which section 351 applies, and

"(iii) the stock is not acquired from a person the ownership of whose stock would, under section 318(a) (other than paragaraph (4) thereof), be attributed to the person acquiring such stock.

"(B) DEEMED PURCHASE OF STOCK OF SUBSIDIARIES.—If stock in a corporation is acquired by purchase (within the meaning of subparagraph (A)) and, as a result of such acquisition, the corporation making such purchase is treated (by reason of section 318(a)) as owning stock in a 3rd corporation, the corporation making such purchase shall be treated as having purchased such stock in such 3rd corporation. The corporation making such purchase shall be treated as purchasing stock in the 3rd corporation by reason of the preceding sentence on the first day on which the purchasing corporation is considered under section 318(a) as owning such stock.

"(4) CONSISTENCY PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'consistency period' means the period consisting of—

"(i) the 1-year period before the beginning of the 12-month acquisition period for the target corporation,

"(ii) such acquisition period (up to and including the acquisition date), and

"(iii) the 1-year period beginning on the day after the acquisition date.

"(B) EXTENSION WHERE THERE IS PLAN.—The period referred to in subparagraph (A) shall also include any period during which the Secretary determines that there was in effect a plan to make a qualified stock purchase plus 1 or more other qualified stock purchases (or asset acquisitions described in subsection (e)) with respect to the target corporation or any target affiliate.

"(5) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given to such term by section 1504(a) (determined without regard to the exceptions contained in section 1504(b)). 26 USC 1504.

"(6) TARGET AFFILIATE.—

"(A) IN GENERAL.—A corporation shall be treated as a target affiliate of the target corporation if each of such corporations was, at any time during so much of the consistency period as ends on the acquisition date of the target corporation, a member of an affiliated group which had the same common parent.

"(B) CERTAIN FOREIGN CORPORATIONS, ETC.—Except as otherwise provided in regulations (and subject to such conditions as may be provided in regulations)—

"(i) the term 'target affiliate' does not include a foreign corporation, a DISC, a corporation described in section 934(b), or a corporation to which an election under section 936 applies, and

"(ii) stock held by a target affiliate in a foreign corporation or a domestic corporation which is a DISC or described in section 1248(e) shall be excluded from the operation of this section.

"(7) ACQUISITIONS BY PURCHASING CORPORATION INCLUDE ACQUISITIONS BY CORPORATIONS AFFILIATED WITH PURCHASING CORPORATION.—Except as otherwise provided in regulations, an acquisition of stock or assets by any member of an affiliated group which includes a purchasing corporation shall be treated as made by the purchasing corporation.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of this section to require consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates (whether by treating all of them as stock purchases or as asset purchases) may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations)."

(b) REPEAL OF SECTION 334(b)(2).—Subsection (b) of section 334 (relating to limitation of subsidiary) is amended to read as follows: 26 USC 334.

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) DISTRIBUTION IN COMPLETE LIQUIDATION.—If property is received by a corporation in a distribution in a complete liquidation to which section 332(a) applies, the basis of the property in the hands of the distributee shall be the same as it would be in the hands of the transferor.

"(2) TRANSFERS TO WHICH SECTION 332(c) APPLIES.—If property is received by a corporation in a transfer to which section 332(c) applies, the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.

"(3) DISTRIBUTEE DEFINED.—For purposes of this subsection, the term 'distributee' means only the corporation which meets the 80-percent stock ownership requirements specified in section 332(b)."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (E) of section 168(e)(4) (relating to liquidation of subsidiary, etc.) is amended by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of a deemed liquidation under section 338." 95 Stat. 204.

(2) Clause (i) of section 168(f)(10)(B) is amended by striking out "(other than a transaction with respect to which the basis is determined under section 334(b)(2))".

(3) Paragraph (4) of section 318(b) is amended to read as follows: 26 USC 318.

"(4) section 338(h)(3)(B) (relating to purchase of stock from subsidiaries, etc.);".

(4) Paragraph (2) of section 336(b) is amended by striking out "334(b)(1)" each place it appears and inserting in lieu thereof "334(b)". 26 USC 336.

(5) Paragraph (2) of section 337(c) (relating to liquidations to which section 332 applies) is amended to read as follows: 26 USC 337.

"(2) LIQUIDATIONS TO WHICH SECTION 332 APPLIES.—In the case of any sale or exchange following the adoption of a plan of complete liquidation, if section 332 applies with respect to such liquidation, this section shall not apply."

(6) Subsection (d) of section 337 is amended by striking out "subsection (c)(2)(A)" each place it appears and inserting in lieu thereof "subsection (c)(2)".

(7) Paragraph (1) of section 381(a) is amended by striking out ", except in a case in which the basis of the assets distributed is determined under section 334(b)(2)". 26 USC 381.

(8) Subparagraph (B) of section 617(h)(3) is amended by inserting "338," after "334(b),". 26 USC 617.

(9) The table of sections for subpart B of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 338 and inserting in lieu thereof the following:

"Sec. 338. Certain stock purchases treated as asset acquisitions."

(d) EFFECTIVE DATES.— 26 USC 338 note.

(1) IN GENERAL.—The amendments made by this section shall apply to any target corporation (within the meaning of section 338 of the Internal Revenue Code of 1954 as added by this section) with respect to which the acquisition date (within the meaning of such section) occurs after August 31, 1982.

(2) CERTAIN ACQUISITIONS BEFORE SEPTEMBER 1, 1982.—If—

(A) an acquisition date under paragraph (1) occurred after August 31, 1980, and before September 1, 1982,

(B) the target corporation (within the meaning of section 338 of such Code) is not liquidated before September 1, 1982, and

(C) the purchasing corporation (within the meaning of section 338 of such Code) makes, not later than November 15, 1982, an election under section 338 of such Code,

then the amendments made by this section shall apply to the acquisition of such target corporation.

(3) CERTAIN ACQUISITIONS OF FINANCIAL INSTITUTIONS.—In any case in which—

(A) there is, on July 22, 1982, a binding contract to acquire control (within the meaning of section 368(c) of such Code) of any financial institution,

(B) the approval of one or more regulatory authorities is required in order to complete such acquisition, and

(C) within 90 days after the date of the final approval of the last such regulatory authority granting final approval, a plan of complete liquidation of such financial institution is adopted,

then the purchasing corporation may elect not to have the amendments made by this section apply to the acquisition pursuant to such contract.

Subpart C—Miscellaneous Provisions

SEC. 225. CLARIFICATION OF SECTION 368(a)(1)(F).

26 USC 368.

(a) GENERAL RULE.—Subparagraph (F) of section 368(a)(1) (defining reorganization) is amended by inserting "of one corporation" after "place of organization".

26 USC 368 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to transactions occurring after August 31, 1982.

(2) PLANS ADOPTED ON OR BEFORE AUGUST 31, 1982.—The amendment made by subsection (a) shall not apply with respect to plans of reorganization adopted on or before August 31, 1982, but only if the transaction occurs before January 1, 1983.

SEC. 226. AMENDMENTS RELATING TO BAILOUTS THROUGH USE OF HOLDING COMPANIES.

(a) AMENDMENTS TO SECTION 304.—

(1) COORDINATION OF SECTIONS 304 AND 351.—

26 USC 304.

(A) Subsection (b) of section 304 (relating to special rules for application of subsection (a)) is amended by adding at the end thereof the following new paragaph:

"(3) COORDINATION WITH SECTION 351.—

"(A) PROPERTY TREATED AS RECEIVED IN REDEMPTION.—Except as otherwise provided in this paragraph, subsection (a) (and not part III) shall apply to any property received in a distribution described in subsection (a).

"(B) CERTAIN ASSUMPTIONS OF LIABILITY, ETC.—

"(i) IN GENERAL.—Subsection (a) shall not apply to any liability—

"(I) assumed by the acquiring corporation, or

"(II) to which the stock is subject,

if such liability was incurred by the transferor to acquire the stock. For purposes of the preceding sentence, the term 'stock' means stock referred to in paragraph (1)(B) or (2)(A) of subsection (a).

"Stock."

"(ii) EXTENSION OF OBLIGATIONS, ETC.—For purposes of clause (i), an extension, renewal, or refinancing of a liability which meets the requirements of clause (i) shall be treated as meeting such requirements.

"(C) DISTRIBUTIONS INCIDENT TO FORMATION OF BANK HOLDING COMPANIES.—If—

"(i) pursuant to a plan, control of a bank is acquired and within 2 years after the date on which such control

is acquired, stock constituting control of such bank is transferred to a BHC in connection with its formation,

"(ii) incident to the formation of the BHC there is a distribution of property described in subsection (a), and

"(iii) the shareholders of the BHC who receive distributions of such property do not have control of such BHC,

then, subsection (a) shall not apply to any securities received by a qualified minority shareholder incident to the formation of such BHC.

"(D) DEFINITIONS AND SPECIAL RULE.—For purposes of subparagraph (C) and this subparagraph—

"(i) QUALIFIED MINORITY SHAREHOLDER.—The term 'qualified minority shareholder' means any shareholder who owns less than 10 percent (in value) of the stock of the BHC. For purposes of the preceding sentence, the rules of paragraph (3) of subsection (c) shall apply.

"(ii) BHC.—The term 'BHC' means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956). 12 USC 1841.

"(iii) SPECIAL RULE IN CASE OF BHC'S FORMED BEFORE 1985.—In the case of a BHC which is formed before 1985, clause (i) of subparagraph (C) shall not apply."

(B) Subsection (f) of section 351 (relating to cross references) is amended by adding at the end thereof the following new paragraph: 26 USC 351.

"(5) For coordination of this section with section 304, see section 304(b)(3)."

(2) APPLICATION OF SECTION 304 WHERE STOCK IS ACQUIRED IN THE TRANSACTION.—

(A) Subsection (c) of section 304 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) STOCK ACQUIRED IN THE TRANSACTION.—For purposes of subsection (a)(1)—

"(A) GENERAL RULE.—Where 1 or more persons in control of the issuing corporation transfer stock of such corporation in exchange for stock of the acquiring corporation, the stock of the acquiring corporation received shall be taken into account in determining whether such person or persons are in control of the acquiring corporation. 26 USC 304.

"(B) DEFINITION OF CONTROL GROUP.—Where 2 or more persons in control of the issuing corporation transfer stock of such corporation to the acquiring corporation and, after the transfer, the transferors are in control of the acquiring corporation, the person or persons in control of each corporation shall include each of the persons who so transfer stock."

(B) Paragraph (3) of section 304(c) (as redesignated by paragraph (1)) is amended by striking out "paragraph (1)" and inserting in lieu thereof "this section".

(3) DETERMINATION OF EARNINGS AND PROFITS.—Subparagraph (A) of section 304(b)(2) (relating to amount constituting dividend) is amended to read as follows:

"(A) WHERE SUBSECTION (a)(1) APPLIES.—In the case of any acquisition of stock to which paragraph (1) (and not paragraph (2)) of subsection (a) of this section applies, the determination of the amount which is a dividend shall be made as if the property were distributed by the issuing corporation to the acquiring corporation and immediately thereafter distributed by the acquiring corporation."

26 USC 306. (b) APPLICATION OF SECTION 306 TO CERTAIN STOCK ACQUIRED IN SECTION 351 EXCHANGES.—Subsection (c) of section 306 (defining section 306 stock) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN STOCK ACQUIRED IN SECTION 351 EXCHANGE.—The term 'section 306 stock' also includes any stock which is not common stock acquired in an exchange to which section 351 applied if receipt of money (in lieu of the stock) would have been treated as a dividend to any extent. In the case of such stock, rules similar to the rules of section 304(b)(2) shall apply for purposes of this section."

26 USC 304 note. (c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers occurring after August 31, 1982, in taxable years ending after such date.

(2) APPROVAL BY FEDERAL RESERVE BOARD.—The amendments made by this section shall not apply to transfers pursuant to an application to form a BHC filed with the Federal Reserve Board before August 16, 1982, if the BHC was formed not later than the later of—

(A) the 90th day after the date of the last required approval of any regulatory authority to form such BHC, or

(B) January 1, 1983.

For purposes of this paragraph, the term "BHC" means a bank holding company (within the meaning of section 2(a) of the 12 USC 1841. Bank Holding Company Act of 1956).

SEC. 227. APPLICATION OF ATTRIBUTION RULES FOR PURPOSES OF SECTIONS 306 AND 356(a)(2).

26 USC 306. (a) APPLICATION FOR PURPOSES OF SECTION 306.—Subsection (c) of section 306 is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF ATTRIBUTION RULES FOR CERTAIN PURPOSES.—For purposes of paragraphs (1)(B)(ii) and (3), section 318(a) shall apply. For purposes of applying the preceding sentence to paragraph (3), sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50 percent limitation contained therein."

26 USC 356. (b) APPLICATION FOR PURPOSES OF SECTION 356(a)(2).—Paragraph (2) of section 356(a) (relating to treatment as dividend) is amended by inserting "(determined with the application of section 318(a))" after "distribution of a dividend"

(c) EFFECTIVE DATES.—

26 USC 306 note. (1) SECTION 306.—The amendment made by subsection (a) shall apply to stock received after August 31, 1982, in taxable years ending after such date.

26 USC 356 note. (2) SECTION 356.—The amendment made by subsection (b) shall apply to distributions after August 31, 1982, in taxable years ending after such date.

SEC. 228. WAIVER OF FAMILY ATTRIBUTION BY ENTITIES.

(a) GENERAL RULE.—Paragraph (2) of section 302(c) (relating to constructive ownership of stock) is amended by adding at the end thereof the following new subparagraph: 26 USC 302.

"(C) SPECIAL RULE FOR WAIVERS BY ENTITIES.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to a distribution to any entity unless—

"(I) such entity and each related person meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A), and

"(II) each related person agrees to be jointly and severally liable for any deficiency (including interest and additions to tax) resulting from an acquisition described in clause (ii) of subparagraph (A).

In any case to which the preceding sentence applies, the second sentence of subparagraph (A) and subparagraph (B)(ii) shall be applied by substituting 'distributee or any related person' for 'distributee' each place it appears.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) the term 'entity' means a partnership, estate, trust, or corporation; and

"(II) the term 'related person' means any person to whom ownership of stock in the corporation is (at the time of the distribution) attributable under section 318(a)(1) if such stock is further attributable to the entity under section 318(a)(3).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to distributions after August 31, 1982, in taxable years ending after such date. 26 USC 302 note.

PART VI—METHODS OF ACCOUNTING

SEC. 229. MODIFICATION OF REGULATIONS ON THE COMPLETED CONTRACT METHOD OF ACCOUNTING. 26 USC 451 note.

(a) IN GENERAL.—The Secretary of the Treasury shall modify the income tax regulations relating to accounting for long-term contracts to—

(1) clarify the time at which a contract is to be considered completed,

(2) clarify when—

(A) one agreement will be treated as more than one contract, and

(B) two or more agreements will be treated as one contract, and

(3) properly allocate all costs which directly benefit, or are incurred by reason of, the extended period long-term contract activities of the taxpayer.

(b) EXTENDED PERIOD LONG-TERM CONTRACTS DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "extended period long-term contract" means any long-term contract which the taxpayer estimates (at the time such contract is entered into) will not be completed within the 2-year period beginning on the contract commencement date of such contract.

(2) CERTAIN CONSTRUCTION CONTRACTS.—

(A) IN GENERAL.—The term "extended period long-term contract" does not include any construction contract entered into by a taxpayer—

(i) who estimates (at the time such contract is entered into) that such contract will be completed within the 3-year period beginning on the contract commencement date of such contract, or

(ii) whose average annual gross receipts over the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $25,000,000.

(B) DETERMINATION OF TAXPAYER'S GROSS RECEIPTS.—For purposes of subparagraph (A), the gross receipts of—

(i) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

26 USC 52.

(ii) all members of any controlled group of corporations of which the taxpayer is a member,

for the 3 taxable years of such persons preceding the taxable year in which the contract described in subparagraph (A) is entered into shall be included in the gross receipts of the taxpayer for the period described in subparagraph (A). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

Regulations.

(C) CONTROLLED GROUP OF CORPORATIONS.—The term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(i) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(3) CONSTRUCTION CONTRACT.—The term "construction contract" means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, improvements to real property.

(4) CONTRACT COMMENCEMENT DATE.—The term "contract commencement date" means, with respect to any contract, the first date on which any costs (other than costs such as bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred.

(c) EFFECTIVE DATES; SPECIAL RULES.—

(1) IN GENERAL.—The modifications to regulations which are required to be made under paragraphs (1) and (2) of subsection (a) shall apply with respect to taxable years ending after December 31, 1982.

(2) COST ALLOCATION.—

(A) IN GENERAL.—Any modification to Income Tax Regulation 1.451-3 made under subsection (a)(3) which requires additional costs to be allocated to a contract shall apply only to the applicable percentage of such additional costs incurred in taxable years beginning after December 31, 1982, with respect to contracts entered into after such date.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"If the taxable year begins in calendar year:	The applicable percentage is:
1983	33⅓
1984	66⅔
1985 or thereafter	100.".

(3) SPECIAL RULES.—

(A) TIME OF COMPLETION.—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982, solely by reason of any modification to regulations made under subsection (a)(1), shall be treated as having been completed on the first day of such taxable year.

(B) AGGREGATION AND SEVERANCE.—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982—

(i) solely by reason of any modification to regulations made under subsection (a)(2), or

(ii) solely by reason of any modifications to regulations made under both paragraphs (1) and (2) of subsection (a),

shall be treated as having been completed on the first day after December 31, 1982, on which any contract which was severed from such contract (by reason of the modifications made by subsection (a)(2)) is completed (determined after the application of any modifications to regulations made under subsection (a)(1)).

SEC. 230. ANNUAL ACCRUAL METHOD OF ACCOUNTING EXTENDED TO CERTAIN PARTNERSHIPS.

(a) IN GENERAL.—Section 447(g) (relating to certain annual accrual accounting methods) is amended— 26 USC 447.

(1) by inserting "or qualified partnership" after "corporation" each place it appears in paragraph (1),

(2) by amending paragraph (3) to read as follows:

"(3) CERTAIN NONRECOGNITION TRANSFERS.—For purposes of this subsection, if—

"(A) a corporation acquired substantially all the assets of a qualified farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, or

"(B) a qualified partnership acquired substantially all the assets of a qualified farming trade or business from one of its partners in a transaction to which section 721 applies,

the transferee corporation or qualified partnership shall be deemed to have computed its taxable income on an annual accrual method of accounting during the period for which the transferor corporation or partnership computed its taxable income from such trade or business on an annual accrual method.", and

(3) by adding at the end thereof the following new paragraph:

"(4) QUALIFIED PARTNERSHIP DEFINED.—For purposes of this subsection—

"(A) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means a partnership which is engaged in a qualified farming trade or business and each of the partners of which is a corporation other than—

"(i) an electing small business corporation (within the meaning of section 1371(b)), or

26 USC 1371.

"(ii) a personal holding company (within the meaning of section 542(a)).

"(B) QUALIFIED FARMING TRADE OR BUSINESS.—The term 'qualified farming trade or business' means the trade or business of farming sugar cane.".

26 USC 447 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

PART VII—ORIGINAL ISSUE DISCOUNT

SEC. 231. ORIGINAL ISSUE DISCOUNT TAKEN INTO ACCOUNT ON BASIS OF CONSTANT INTEREST RATE.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232 the following new section:

26 USC 1232A.

"SEC. 1232A. ORIGINAL ISSUE DISCOUNT.

"(a) ORIGINAL ISSUE DISCOUNT ON BONDS ISSUED AFTER JULY 1, 1982, INCLUDED IN INCOME ON BASIS OF CONSTANT INTEREST RATE.—

"(1) GENERAL RULE.—For purposes of this subtitle, there shall be included in the gross income of the holder of any bond having an original issue discount issued after July 1, 1982 (and which is a capital asset in the hands of the holder) an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such bond.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) NATURAL PERSONS.—Any obligation issued by a natural person.

"(B) TAX-EXEMPT OBLIGATIONS.—Any obligation if—

"(i) the interest on such obligation is not includible in gross income under section 103, or

"(ii) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

"(C) SHORT-TERM GOVERNMENT OBLIGATIONS.—Any short-term Government obligation (within the meaning of section 1232(a)(3)).

"(D) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(3) DETERMINATION OF DAILY PORTIONS.—For purposes of paragraph (1), the daily portion of the original issue discount on any bond shall be determined by allocating to each day in any bond period its ratable portion of the increase during such bond period in the adjusted issue price of the bond. For purposes of the preceding sentence, the increase in the adjusted issue price for any bond period shall be an amount equal to the excess (if any) of—

"(A) the product of—

"(i) the adjusted issue price of the bond at the beginning of such bond period, and

"(ii) the yield to maturity (determined on the basis of compounding at the close of each bond period), over

"(B) the sum of the amounts payable as interest on such bond during such bond period.

"(4) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any bond at the beginning of any bond period is the sum of—

"(A) the issue price of such bond, plus

"(B) the adjustments under this subsection to such issue price for all periods before the first day of such bond period.

"(5) BOND PERIOD.—Except as otherwise provided in regulations prescribed by the Secretary, the term 'bond period' means a 1-year period (or the shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the bond.

"(6) REDUCTION IN CASE OF CERTAIN SUBSEQUENT HOLDERS.—For purposes of this subsection, in the case of any purchase of a bond to which this subsection applies after its original issue, the daily portion shall not include an amount (determined at the time of purchase) equal to the excess (if any) of—

"(A) the cost of such bond incurred by the purchaser, over

"(B) the issue price of such bond, increased by the sum of the daily portions for such bond for all days before the date of purchase (computed without regard to this paragraph), divided by the number of days beginning on the date of such purchase and ending on the day before the stated maturity date.

"(7) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the inclusion under paragraph (1) for the taxable year does not accurately reflect the income of the holder, the proper amount of income shall be included for such taxable year (and appropriate adjustments shall be made in the amounts included for subsequent taxable years).

"(b) RATABLE INCLUSION RETAINED FOR CORPORATE BONDS ISSUED BEFORE JULY 2, 1982.—

"(1) GENERAL RULE.—There shall be included in the gross income of the holder of any bond issued by corporation after May 27, 1969, and before July 2, 1982 (and which is a capital asset in the hands of the holder)—

"(A) the ratable monthly portion of original issue discount, multiplied by

"(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder held such bond during the taxable year.

"(2) DETERMINATION OF RATABLE MONTHLY PORTION.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

"(A) the original issue discount, divided by

"(B) the number of complete months from the date of original issue to the stated maturity date of the bond.

"(3) MONTH DEFINED.—For purposes of this subsection, a complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day). In any case where a bond is acquired on any day other than a day determined under the preceding sentence, the rat-

able monthly portion of original issue discount for the complete month (or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the bond.

"(4) REDUCTION IN CASE OF CERTAIN SUBSEQUENT HOLDERS.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include an amount, determined at the time of any purchase after the original issue of the bond, equal to the excess of—

"(A) the cost of such bond incurred by the holder, over

"(B) the issue price of such bond, increased by the portion of original discount previously includible in the gross income of any holder (computed without regard to this paragraph),

divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such bond.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) BOND INCLUDES OTHER EVIDENCES OF INDEBTEDNESS.—For purposes of this section, the term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) PURCHASE DEFINED.—For purposes of this section, the term 'purchase' means any acquisition of a bond, but only if the basis of the bond is not determined in whole or in part by reference to the adjusted basis of such bond in the hands of the person from whom acquired, or under section 1014(a) (relating to property acquired from a decedent).

26 USC 1014.

"(3) ORIGINAL ISSUE DISCOUNT, ETC.—For purposes of this section, the terms 'original issue discount', 'issue price', and 'date of original issue' shall have the respective meanings given to such terms by section 1232(b).

"(4) EXCEPTIONS.—This section shall not apply to any holder—

"(A) who has purchased the bond at a premium, or

"(B) which is a life insurance company to which section 818(b) applies.

"(5) BASIS ADJUSTMENTS.—The basis of any bond in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section."

(b) DEDUCTION DETERMINED ON BASIS OF CONSTANT INTEREST RATE.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

26 USC 163.

"(e) ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—In the case of any bond issued after July 1, 1982, by an issuer (other than a natural person), the portion of the original issue discount with respect to such bond which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(A) BOND.—The term 'bond' has the meaning given to such term by section 1232A(c)(1).

"(B) DAILY PORTIONS.—The daily portion of the original issue discount for any day shall be determined under section 1232A(a) (without regard to paragraphs (2)(B) and (6)

thereof and without regard to the second sentence of section 1232(b)(1))."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 1232(a)(2) is amended— 26 USC 1232.

(A) by striking out "by a corporation after May 27, 1969" and inserting in lieu thereof "by a corporation after May 27, 1969, or by a government or political subdivision thereof after July 1, 1982",

(B) by striking out "as provided in paragraph (3)(B)" and inserting in lieu thereof "without regard to subsection (a)(6) or (b)(4) of section 1232A (or the corresponding provisions of prior law)", and

(C) by striking out the subparagraph heading and inserting in lieu thereof the following:

"(A) CORPORATE BONDS ISSUED AFTER MAY 27, 1969, AND GOVERNMENT BONDS ISSUED AFTER JULY 1, 1982.—".

(2) Subparagraph (B) of section 1232(a)(2) is amended—

(A) by striking out "by a government or political subdivision thereof after December 31, 1954" and inserting in lieu thereof "by a government or political subdivision thereof after December 31, 1954, and on or before July 1, 1982,", and

(B) by striking out "GOVERNMENT BONDS" in the subparagraph heading and inserting in lieu thereof "GOVERNMENT BONDS ISSUED ON OR BEFORE JULY 1, 1982".

(3) Subparagraph (D) of section 1232(a)(2) is amended by striking out "This section" and inserting in lieu thereof "This section and sections 1232A and 1232B".

(4) Subsection (a) of section 1232 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(d) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 1232 the following:

"Sec. 1232A. Original issue discount."

(e) TRANSITIONAL RULE.—For purposes of the amendments made by this section, any evidence of indebtedness issued pursuant to a written commitment which was binding on July 1, 1982, and at all times thereafter shall be treated as issued on July 1, 1982. 26 USC 1232A note.

SEC. 232. TAX TREATMENT OF STRIPPED BONDS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232A the following new section:

"SEC. 1232B. TAX TREATMENT OF STRIPPED BONDS. 26 USC 1232B.

"(a) INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.—If any person purchases after July 1, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of section 1232A(a) as a bond originally issued by a corporation on the purchase date and having an original issue discount equal to the excess (if any) of— *Ante*, p. 496.

"(1) the stated redemption price at maturity (or, in the case of a coupon, the amount payable on the due date of such coupon), over

"(2) such bond's or coupon's ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

"(b) TAX TREATMENT OF PERSON STRIPPING BOND.—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and after July 1, 1982, disposes of the bond or such coupon—

"(1) such person shall include in gross income an amount equal to the interest accrued on such bond before the time that such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person's gross income),

"(2) the basis of the bond and coupons shall be increased by the amount of the accrued interest described in paragraph (1),

"(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

"(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

"(c) RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JULY 2, 1982.—If a bond issued at any time with interest coupons—

"(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

"(2) is purchased after December 31, 1957, and before July 2, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1232(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1232(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

26 USC 1232.

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any obligation the interest on which is not includible in gross income under section 103 or is exempt from tax (without regard to the identity of the holder) under any other provision of law—

"(1) subsections (a) and (b)(1) shall not apply,

"(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

"(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) STRIPPED BOND.—The term 'stripped bond' means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

"(3) STRIPPED COUPON.—The term 'stripped coupon' means any coupon relating to a stripped bond.

"(4) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' has the meaning given such term by the third sentence of section 1232(b)(1).

"(5) COUPON.—The term 'coupon' includes any right to receive interest on a bond (whether or not evidenced by a coupon). This paragraph shall apply for purposes of subsection (c) only in the case of purchases after July 1, 1982.

"(f) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, extendable maturities, or other circumstances, the tax treatment under this section does not accurately reflect the income of the holder of a stripped coupon or stripped bond, or of the person disposing of such bond or coupon, as the case may be, for any period, such treatment shall be modified to require that the proper amount of income be included for such period."

(b) CONFORMING AMENDMENT.—Section 1232 is amended by striking out subsections (c) and (d). 26 USC 1232.

(c) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 1232A the following:

"Sec. 1232B. Tax treatment of stripped bonds."

PART VIII—OTHER BUSINESS PROVISIONS

SEC. 233. TARGETED JOBS TAX CREDIT.

(a) 2-YEAR EXTENSION.—Paragraph (3) of section 51(c) (relating to termination of credit for employment of certain new employees) is amended by striking out "1982" and inserting in lieu thereof "1984". 95 Stat. 260.

(b) QUALIFIED SUMMER YOUTH EMPLOYEE.—Subsection (d) of section 51 (defining members of targeted groups) is amended—

(1) by striking out "or" at the end of subparagraph (H),

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof ", or",

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) a qualified summer youth employee.",

(4) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (13), (14), (15), and (16), respectively, and

(5) by inserting after paragraph (11) the following new paragraph:

"(12) QUALIFIED SUMMER YOUTH EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified summer youth employee' means an individual—

"(i) who performs services for the employer between May 1 and September 15,

"(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (as defined in paragraph (14)),

"(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(iii), and

"(iv) who is certified by the designated local agency as being a member of an economically disadvantaged family (as determined under paragraph (11)).

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

"(i) subsection (a)(1) shall be applied by substituting '85 percent' for '50 percent',

"(ii) subsections (a)(2) and (b)(3) shall not apply,

"(iii) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

"(iv) subsection (b)(4) shall be applied by substituting '$3,000' for '$6,000'.

"(C) SPECIAL RULE FOR CONTINUED EMPLOYMENT FOR SAME EMPLOYER.—In the case of an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee, paragraph (14) shall be applied by substituting 'certified' for 'hired by the employer'."

(c) TERMINATION OF INVOLUNTARILY TERMINATED CETA EMPLOYEE AS MEMBER OF TARGETED GROUP.—Paragraph (10) of section 51(d) (relating to involuntarily terminated CETA employee) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any individual who begins work for the employer after December 31, 1982."

26 USC 51.

(d) VOUCHER OR SCRIP PAYMENTS TO GENERAL RECIPIENTS IN QUALIFIED GENERAL ASSISTANCE PROGRAMS.—Subclause (II) of section 51(d)(6)(B)(i) (defining qualified general assistance programs) is amended by inserting before the comma the following: "or voucher or scrip".

(e) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS; REPORTS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended—

26 USC 51 note.
95 Stat. 260.

(1) by inserting after "for fiscal year 1982 the sum of $30,000,000" the following: ", and for fiscal years 1983 and 1984 such sums as may be necessary,"; and

(2) by inserting at the end thereof the following new sentence: "The Secretary of Labor shall each calendar year beginning with calendar year 1983 report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate with respect to the results of the testing conducted under subparagraph (A) during the preceding calendar year."

(f) CERTIFICATIONS.—Effective only with respect to individuals who begin work for the taxpayer after May 11, 1982, subparagraph (A) of section 51(d)(15) (relating to special rules for certifications), as in effect before the amendments made by this Act, is amended by striking out "before the day" and inserting in lieu thereof "on or before the day".

95 Stat. 260.

(g) EFFECTIVE DATES.— 26 USC 51 note.

(1) SUBSECTION (b).—The amendments made by subsection (b) shall apply to amounts paid or incurred after April 30, 1983, to individuals beginning work for the employer after such date.

(2) SUBSECTION (d).—The amendments made by subsection (d) shall apply to amounts paid or incurred after July 1, 1982, to individuals beginning work for the employer after such date.

SEC. 234. ACCELERATED PAYMENT OF INCOME TAX BY CORPORATIONS.

(a) INCREASE IN AMOUNT OF ESTIMATED TAX REQUIRED TO BE PAID.—

(1) IN GENERAL.—Paragraph (1) of section 6655(b) (relating to amount of underpayment) is amended by striking out "80" each place it appears and inserting in lieu thereof "90". 26 USC 6655.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 6655(d) (relating to exception to imposition of additional tax) is amended by striking out "80" and inserting in lieu thereof "90".

(b) ELIMINATION OF ELECTION WITH RESPECT TO PAYMENT OF UNPAID TAXES.—

(1) IN GENERAL.—Section 6152 (relating to installment payments of tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections: 26 USC 6152.

"(a) PRIVILEGE TO ELECT TO MAKE FOUR INSTALLMENT PAYMENTS BY DECEDENT'S ESTATE.—A decedent's estate subject to the tax imposed by chapter 1 may elect to pay such tax in four equal installments.

"(b) DATES PRESCRIBED FOR PAYMENT OF FOUR INSTALLMENTS.—In any case (other than payment of estimated income tax) in which the tax may be paid in four installments, the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on or before 3 months, the third installment on or before 6 months, and the fourth installment on or before 9 months, after such date.".

(2) Conforming amendments.—

(A) Paragraph (2) of section 832(e) is amended by striking out ", as if no election to make installment payments under section 6152 is made". 26 USC 832.

(B) Subsection (b) of section 6081 is amended by striking out "or the first installment thereof required under section 6152". 26 USC 6081.

(C) Section 6164 is amended— 26 USC 6164.

(i) by striking out the last sentence of subsection (c) and inserting in lieu thereof the following new sentence: "If an extension of time under this section relates to only a part of the tax, the time for payment of the remainder shall be the date on which payment would have been required if such remainder had been the tax."; and

(ii) by striking out paragraph (2) of subsection (g) and inserting in lieu thereof the following new paragraph:

"(2) the time for payment of such amount shall be considered to be the date on which payment would have been required if there had been no extension with respect to such amount.".

(c) AMOUNT OF ADDITION TO TAX.—Subsection (a) of section 6655 (relating to addition to tax) is amended to read as follows: 26 USC 6655.

"(a) ADDITION TO TAX.—Except as provided in subsections (d) and (e), in the case of any underpayment of tax by a corporation—

"(1) IN GENERAL.—There shall be added to the tax under chapter 1 for the taxable year an amount determined at the rate established under section 6621 on the amount of the underpayment for the period of the underpayment.

"(2) SPECIAL RULE WHERE CORPORATION PAID 80 PERCENT OR MORE OF TAX.—In any case in which there would be no underpayment if subsection (b) were applied by substituting '80 percent' for '90 percent' each place it appears, the addition to tax under paragraph (1) shall be equal to 75 percent of the amount otherwise determined under paragraph (1)."

(d) ADDITIONAL EXCEPTION FROM PENALTY FOR UNDERPAYMENTS OF ESTIMATED INCOME TAX WHERE A CORPORATION HAS A RECURRING PATTERN OF SEASONAL INCOME.—

26 USC 6655.

(1) IN GENERAL.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively, and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL EXCEPTION FOR RECURRING SEASONAL INCOME.—

"(1) IN GENERAL.—Notwithstanding the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds 90 percent of the amount determined under paragraph (2).

"(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph for any installment shall be determined in the following manner—

"(A) take the taxable income for all months during the taxable year preceding the filing month,

"(B) divide such amount by the base period percentage for all months during the taxable year preceding the filing month,

"(C) determine the tax on the amount determined under subparagraph (B), and

"(D) multiply the tax computed under subparagraph (C) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) BASE PERIOD PERCENTAGE.—The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

"(B) FILING MONTH.—The term 'filing month' means the month in which the installment is required to be paid.

"(C) LIMITATION ON APPLICATION OF SUBSECTION.—This subsection shall only apply if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

"(D) REORGANIZATIONS, ETC.—The Secretary may by regulations provide for the determination of the base period

percentage in the case of reorganizations, new corporations, and other similar circumstances."

(2) TECHNICAL AMENDMENT.—Subsection (f) of section 6655 (as redesignated by paragraph (1)) is amended by striking out "(d), and (h)" and inserting in lieu thereof "(d), (e), and (i)" 26 USC 6655.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. 26 USC 6655 note.

Subtitle C—Pensions

PART I—CONTRIBUTION AND LOAN LIMITS

SEC. 235. LOWER CONTRIBUTION AND BENEFIT LIMITS FOR CERTAIN ANNUITIES, ETC.

(a) LIMIT ON ANNUAL DEFINED BENEFIT LOWERED FROM $136,425 TO $90,000; LIMIT ON ANNUAL DEFINED CONTRIBUTION LOWERED FROM $45,475 TO $30,000.—

(1) DEFINED BENEFIT PLANS.—Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plan) is amended by striking out "$75,000" and inserting in lieu thereof "$90,000". 26 USC 415.

(2) DEFINED CONTRIBUTION PLANS.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plan) is amended by striking out "$25,000" and inserting in lieu thereof "$30,000".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 415(b)(2) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$90,000".

(B) The last sentence of paragraph (7) of section 415(b) is amended by striking out "by substituting '37,500' for '75,000' " and inserting in lieu thereof "by substituting the greater of $68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$90,000' ".

(b) COST-OF-LIVING ADJUSTMENTS.—

(1) ADJUSTMENT TO REFLECT ADJUSTMENTS MADE IN SOCIAL SECURITY BENEFIT PAYMENTS RATHER THAN PRIMARY INSURANCE AMOUNTS.—Paragraph (1) of section 415(d) (relating to cost-of-living adjustments) is amended by striking out "primary insurance amounts" and inserting in lieu thereof "benefit amounts".

(2) FREEZE ON COST-OF-LIVING ADJUSTMENTS BEFORE JANUARY 1, 1986.—

(A) IN GENERAL.—Subsection (d) of section 415 is amended by adding at the end thereof the following new paragraph:

"(3) FREEZE ON ADJUSTMENT TO DEFINED CONTRIBUTION AND BENEFIT LIMITS.—The Secretary shall not make any adjustment under subparagraph (A) or (B) of paragraph (1) with respect to any year beginning after December 31, 1982, and before January 1, 1986."

(B) CHANGE IN BASE PERIOD TO REFLECT CHANGE IN LIMITS AND FREEZE.—Paragraph (2) of section 415(d) (relating to base periods) is amended by striking out "1974" and inserting in lieu thereof "1984".

(3) CONFORMING AMENDMENTS TO DECREASE IN LIMITS.—Paragraph (1) of section 415(d) is amended—

(A) by striking out "$75,000" in subparagraph (A) and inserting in lieu thereof "$90,000", and

(B) by striking out "$25,000" in subparagraph (B) and inserting in lieu thereof "$30,000".

(c) LOWER LIMITS WHERE INDIVIDUAL IS COVERED BY BOTH DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN.—

(1) SUM OF DEFINED BENEFIT PLAN FRACTION AND DEFINED CONTRIBUTION PLAN FRACTION CANNOT EXCEED 1.25 FOR DOLLAR LIMITS AND 1.4 FOR PERCENTAGE LIMITS.—Paragraph (1) of section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by striking out "1.4" and inserting in lieu thereof "1.0".

26 USC 415.

(2) DEFINED BENEFIT AND CONTRIBUTION PLAN FRACTIONS.—

(A) DEFINED BENEFIT PLAN FRACTION.—Subparagraph (B) of section 415(e)(2) (defining defined benefit plan fraction) is amended to read as follows:

"(B) the denominator of which is the lesser of—

"(i) the product of 1.25, multiplied by the dollar limitation in effect under subsection (b)(1)(A) for such year, or

"(ii) the product of—

"(I) 1.4, multiplied by

"(II) the amount which may be taken into account under subsection (b)(1)(B) with respect to such individual under the plan for such year."

(B) DEFINED CONTRIBUTION PLAN FRACTION.—Subparagraph (B) of section 415(e)(3) (defining defined contribution plan fraction) is amended to read as follows:

"(B) the denominator of which is the sum of the lesser of the following amounts determined for such year and for each prior year of service with the employer:

"(i) the product of 1.25, multiplied by the dollar limitation in effect under subsection (c)(1)(A) for such year (determined without regard to subsection (c)(6)), or

"(ii) the product of—

"(I) 1.4, multiplied by—

"(II) the amount which may be taken into account under subsection (c)(1)(B) (or subsection (c)(7) or (8), if applicable) with respect to such individual under such plan for such year."

(d) TRANSITION RULES FOR DEFINED CONTRIBUTION FRACTION.—Section 415(e) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL TRANSITION RULE FOR DEFINED CONTRIBUTION FRACTION FOR YEARS ENDING AFTER DECEMBER 31, 1982.—

"(A) IN GENERAL.—At the election of the plan administrator, in applying paragraph (3) with respect to any year ending after December 31, 1982, the amount taken into account under paragraph (3)(B) with respect to each participant for all years ending before January 1, 1983, shall be an amount equal to the product of—

"(i) the amount determined under paragraph (3)(B) (as in effect for the year ending in 1982) for the year ending in 1982, multiplied by

"(ii) the transition fraction.

"(B) TRANSITION FRACTION.—The term 'transition fraction' means a fraction—

"(i) the numerator of which is the lesser of—
"(I) $51,875, or
"(II) 1.4, multiplied by 25 percent of the compensation of the participant for the year ending in 1981, and
"(ii) the denominator of which is the lesser of—
"(I) $41,500, or
"(II) 25 percent of the compensation of the participant for the year ending in 1981."

(e) ACTUARIAL ADJUSTMENTS.—

(1) ACTUARIAL ADJUSTMENTS FOR EARLY RETIREMENT MADE BY REFERENCE TO AGE 62 (INSTEAD OF 55).—Subparagraph (C) of section 415(b)(2) (relating to adjustments where benefit begins before age 55) is amended by striking out "55" each place it appears and inserting in lieu thereof "62". 26 USC 415.

(2) $75,000 FLOOR ON ACTUARIAL ADJUSTMENT WHERE BENEFIT BEGINS BEFORE 62.—Subparagraph (C) of section 415(b)(2) is amended by adding at the end thereof the following new sentence: "The reduction under this subparagraph shall not reduce the limitation of paragraph (1)(A) below—
"(i) if the benefit begins at or after age 55, $75,000, or
"(ii) if the benefit begins before age 55, the amount which is the equivalent of the $75,000 limitation for age 55."

(3) ACTUARIAL ADJUSTMENTS WHERE BENEFIT BEGINS AFTER AGE 65.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:
"(D) ADJUSTMENT TO $90,000 LIMITATION WHERE BENEFIT BEGINS AFTER AGE 65.—If the retirement income benefit under the plan begins after age 65, the determination as to whether the $90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 65."

(4) LIMITATIONS ON ACTUARIAL ADJUSTMENTS UNDER SECTION 415(b)(2).—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:
"(E) LIMITATION ON CERTAIN ASSUMPTIONS.—
"(i) For purposes of adjusting any benefit under subparagraph (B) or (C), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan.
"(ii) For purposes of adjusting any benefit under subparagraph (D), the interest rate assumption shall not be greater than the lesser of 5 percent or the rate specified in the plan.
"(iii) For purposes of adjusting any benefit under subparagraph (B), (C), or (D), no adjustments under subsection (d)(1) shall be taken into account before the year for which such adjustment first takes effect."

(f) LIMITATIONS ON DEDUCTIBILITY OF CONTRIBUTIONS.—Section 404 (relating to contributions of an employer to an employee's trust, etc.) is amended by adding at the end thereof the following new subsection: 95 Stat. 293.

"(j) SPECIAL RULES RELATING TO APPLICATION WITH SECTION 415.—

"(1) NO DEDUCTION IN EXCESS OF SECTION 415 LIMITATION.—In computing the amount of any deduction allowable under paragraph (1), (2), (3), (4), (7), or (10) of subsection (a) for any year—

"(A) in the case of a defined benefit plan, there shall not be taken into account any benefits for any year in excess of any limitation on such benefits under section 415 for such year, or

26 USC 415.

"(B) in the case of a defined contribution plan, the amount of any contributions otherwise taken into account shall be reduced by any annual additions in excess of the limitation under section 415 for such year.

"(2) NO ADVANCE FUNDING OF COST-OF-LIVING ADJUSTMENTS.—For purposes of clause (i), (ii) or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, there shall not be taken into account any adjustments under section 415(d)(1) for any year before the year for which such adjustment first takes effect."

26 USC 415 note.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—

(A) NEW PLANS.—In the case of any plan which is not in existence on July 1, 1982, the amendments made by this section shall apply to years ending after July 1, 1982.

(B) EXISTING PLANS.—

(i) In the case of any plan which is in existence on July 1, 1982, the amendments made by this section shall apply to years beginning after December 31, 1982.

(ii) PLAN REQUIREMENTS.—A plan shall not be treated as failing to meet the requirements of section 401(a)(16) of the Internal Revenue Code of 1954 for any year beginning before January 1, 1984, merely because such plan provides for benefit or contribution limits which are in excess of the limitations under section 415 of such Code, as amended by this section. The preceding sentence shall not apply to any plan which provides such limits in excess of the limitation under section 415 of such Code before such amendments.

(2) AMENDMENTS RELATED TO COST-OF-LIVING ADJUSTMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to adjustments for years beginning after December 31, 1982.

(B) ADJUSTMENT PROCEDURES.—The amendments made by subsections (b)(1) and (b)(2)(B) shall apply to adjustments for years beginning after December 31, 1985.

(3) TRANSITION RULE WHERE THE SUM OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLAN FRACTIONS EXCEEDS 1.0.—In the case of a plan which satisfied the requirements of section 415 of the Internal Revenue Code of 1954 for the last year beginning before January 1, 1983, the Secretary of the Treasury or his delegate shall prescribe regulations under which an amount is subtracted from the numerator of the defined contribution plan fraction (not exceeding such numerator) so that the sum of the defined benefit plan fraction and the defined contribution plan fraction computed under section 415(e)(1) of the Internal Revenue Code of 1954 (as amended by the Tax Equity and Fiscal Responsibility Act of 1982) does not exceed 1.0 for such year.

Ante, p. 506.

(4) RIGHT TO HIGHER ACCRUED DEFINED BENEFIT PRESERVED.—

(A) IN GENERAL.—In the case of an individual who is a participant before January 1, 1983, in a defined benefit plan which is in existence on July 1, 1982, and with respect to which the requirements of section 415 of such Code have been met for all years, if such individual's current accrued benefit under such plan exceeds the limitation of subsection (b) of section 415 of the Internal Revenue Code of 1954 (as amended by this section), then (in the case of such plan) for purposes of subsections (b) and (e) of such section, the limitation of such subsection (b) with respect to such individual shall be equal to such current accrued benefit.

(B) CURRENT ACCRUED BENEFIT DEFINED.—

(i) IN GENERAL.— For purposes of this paragraph, the term "current accrued benefit" means the individual's accrued benefit (at the close of the last year beginning before January 1, 1983) when expressed as an annual benefit (within the meaning of section 415(b)(2) of such Code as in effect before the amendments made by this Act). 26 USC 415.

(ii) SPECIAL RULE.—For purposes of determining the amount of any individual's current accrued benefit—

(I) no change in the terms and conditions of the plan after July 1, 1982, and

(II) no cost-of-living adjustment occurring after July 1, 1982,

shall be taken into account.

(5) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained on the date of the enactment of this Act pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the amendments made by this section and section 253 (relating to age 70½) shall not apply to years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1986.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section and section 253 shall not be treated as a termination of such collective bargaining agreement.

SEC. 236. LOANS TREATED AS DISTRIBUTIONS.

(a) GENERAL RULE.—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection: 95 Stat. 278.

"(p) LOANS TREATED AS DISTRIBUTIONS.—For purposes of this section—

"(1) TREATMENT AS DISTRIBUTIONS.—

"(A) LOANS.—If during any taxable year a participant or beneficiary receives (directly or indirectly) any amount as a loan from a qualified employer plan, such amount shall be treated as having been received by such individual as a distribution under such plan.

"(B) ASSIGNMENTS OR PLEDGES.—If during any taxable year a participant or beneficiary assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a qualified employer plan, such portion shall be treated as having been received by such individual as a loan from such plan.

"(2) EXCEPTION FOR CERTAIN LOANS.—

"(A) GENERAL RULE.—Paragraph (1) shall not apply to any loan to the extent that such loan (when added to the outstanding balance of all other loans from such plan whether made on, before, or after August 13, 1982), does not exceed the lesser of—

"(i) $50,000, or

"(ii) ½ of the present value of the nonforfeitable accrued benefit of the employee under the plan (but not less than $10,000).

"(B) REQUIREMENT THAT LOAN BE REPAYABLE WITHIN 5 YEARS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any loan unless such loan, by its terms, is required to be repaid within 5 years.

"(ii) EXCEPTION FOR HOME LOANS.—Clause (i) shall not apply to any loan used to acquire, construct, reconstruct, or substantially rehabilitate any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the participant or a member of the family (within the meaning of section 267(c)(4)) of the participant.

26 USC 267.

"(C) RELATED EMPLOYERS AND RELATED PLANS.—For purposes of this paragraph—

"(i) the rules of subsections (b), (c), and (m) of section 414 shall apply, and

"(ii) all plans of an employer (determined after the application of such subsections) shall be treated as 1 plan.

"(3) QUALIFIED EMPLOYER PLAN, ETC.—For purposes of this subsection, the term 'qualified employer plan' means any plan which was (or was determined to be) a qualified employer plan (as defined in section 219(e)(3) without regard to subparagraph (D) thereof). For purposes of this subsection, such term includes any government plan (as defined in section 219(e)(4)).

"(4) SPECIAL RULES FOR LOANS, ETC., FROM CERTAIN CONTRACTS.—For purposes of this subsection, any amount received as a loan under a contract purchased under a qualified employer plan (and any assignment or pledge with respect to such a contract) shall be treated as a loan under such employer plan."

(b) TECHNICAL AMENDMENTS.—

95 Stat. 284.
26 USC 72.

(1) Subsection (m) of section 72 is amended by striking out paragraphs (4) and (8).

95 Stat. 278.

(2) Subparagraph (A) of section 72(o)(3) is amended by striking out "subsection (m)(4) and (8)" and inserting in lieu thereof "subsection (p)".

26 USC 72 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans, assignments, and pledges made after August 13,

1982. For purposes of the preceding sentence, the outstanding balance of any loan which is renegotiated, extended, renewed, or revised after such date shall be treated as an amount received as a loan on the date of such renegotiation, extension, renewal, or revision.

(2) EXCEPTION FOR CERTAIN LOANS USED TO REPAY OUTSTANDING OBLIGATIONS.—

(A) IN GENERAL.—Any qualified refunding loan shall not be treated as a distribution by reason of the amendments made by this section to the extent such loan is repaid before August 14, 1983.

(B) QUALIFIED REFUNDING LOAN.—For purposes of subparagraph (A), the term "qualified refunding loan" means any loan made after August 13, 1982, and before August 14, 1983, to the extent such loan is used to make a required principal payment.

(C) REQUIRED PRINCIPAL PAYMENT.—For purposes of subparagraph (B), the term "required principal payment" means any principal repayment on a loan made under the plan which was outstanding on August 13, 1982, if such repayment is required to be made after August 13, 1982, and before August 14, 1983.

PART II—REPEAL OF SPECIAL LIMITATIONS ON PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS OR OWNER-EMPLOYEES

SEC. 237. REPEAL OF SPECIAL QUALIFICATION REQUIREMENTS.

(a) GENERAL RULE.—Subsection (d) of section 401 (relating to additional requirements for qualifications of trusts and plans benefiting owner-employees) is amended— 26 USC 401.

(1) by striking out paragraphs (1) through (7), and

(2) by redesignating paragraphs (9), (10), and (11) as paragraphs (1), (2), and (3), respectively.

(b) REPEAL OF LIMITATIONS ON AMOUNT OF COMPENSATION TAKEN INTO ACCOUNT AND ON CERTAIN DEFINED BENEFIT PLANS.—Paragraphs (17) and (18) of section 401(a) are hereby repealed.

(c) REPEAL OF EXCISE TAX ON EXCESS CONTRIBUTIONS FOR SELF-EMPLOYED INDIVIDUALS.—

(1) Section 4972 (relating to tax on excess contributions for self-employed individuals) is hereby repealed. 26 USC 4972.

(2) The table of sections for chapter 43 is amended by striking out the item relating to section 4972.

(d) PENALTY FOR PREMATURE WITHDRAWALS LIMITED TO KEY EMPLOYEES IN TOP-HEAVY PLANS.—

(1) Subparagraph (A) of section 72(m)(5) is amended— 26 USC 72.

(A) by striking out "an owner-employee" the first place it appears and inserting in lieu thereof "a key employee",

(B) by striking out "while he was an owner-employee" and inserting in lieu thereof "while he was a key employee in a top-heavy plan", and

(C) by striking out "an owner-employee" in clause (ii) and inserting in lieu thereof "a key employee".

(2) Paragraph (5) of section 72(m) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph, the terms 'key employee' and 'top-heavy plan' have the same meanings as when used in section 416."

95 Stat. 284. (3) Paragraph (6) of section 72(m) is amended by striking out "except in applying paragraph (5),".

(e) CONFORMING AMENDMENTS.—

26 USC 401. (1) Paragraph (10) of section 401(a) is amended to read as follows:

"(10) OTHER REQUIREMENTS.—

"(A) PLANS BENEFITING OWNER-EMPLOYEES.—In the case of any plan which provides contributions or benefits for employees some or all of whom are owner-employees (as defined in subsection (c)(3)), a trust forming part of such plan shall constitute a qualified trust under this section only if the requirements of subsection (d) are also met."

26 USC 404. (2) Paragraph (2) of section 404(a) is amended—

(A) by striking out "(8), (11)" and inserting in lieu thereof "(8), (9), (11)", and

(B) by striking out "section 401(a)(9), (10), (17), and (18), and of section 401(d) (other than paragraph (1))" and inserting in lieu thereof "section 401(a)(10) and of section 401(d)".

26 USC 408. (3)(A) Paragraph (2) of section 408(a) (defining individual retirement account) is amended by striking out "as defined in section 401(d)(1)" and inserting in lieu thereof "as defined in subsection (n)".

(B) Section 408 is amended by redesignating the subsection relating to cross references as subsection (o) and by inserting immediately before such subsection the following new subsection:

"(n) BANK.—For purposes of subsection (a)(2), the term 'bank' means—

"(1) any bank (as defined in section 581),

"(2) an insured credit union (within the meaning of section 12 USC 1752. 101(6) of the Federal Credit Union Act), and

"(3) a corporation which, under the laws of the State of its incorporation, is subject to supervision and examination by the Commissioner of Banking or other officer of such State in charge of the administration of the banking laws of such State."

SEC. 238. REPEAL OF SPECIAL LIMITATIONS ON DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS AND SUBCHAPTER S CORPORATIONS.

(a) REPEAL OF LIMIT OF LOWER OF $15,000 OR 15 PERCENT OF 26 USC 404. EARNED INCOME.—Subsection (e) of section 404 (relating to special limitations for self-employed individuals) is amended to read as follows:

"(e) CONTRIBUTIONS ALLOCABLE TO LIFE INSURANCE PROTECTION FOR SELF-EMPLOYED INDIVIDUALS.—In the case of a self-employed individual described in section 401(c)(1), contributions which are allocable (determined under regulations prescribed by the Secretary) to the purchase of life, accident, health, or other insurance shall not be taken into account under this section."

(b) REPEAL OF LIMITATIONS ON DEFINED BENEFIT PLANS.—Subsec- 26 USC 401. tion (j) of section 401 (relating to defined benefit plans providing benefits for self-employed individuals and shareholder-employees) is hereby repealed.

(c) REPEAL OF LIMITATIONS APPLICABLE TO SUBCHAPTER S CORPORATIONS.—Section 1379 is amended— 26 USC 1379.

(1) by striking out subsections (a) and (b), and

(2) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 401(c)(1) (defining employee) is amended to read as follows: 26 USC 401.

"(1) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—

"(A) IN GENERAL.—The term 'employee' includes, for any taxable year, an individual who is a self-employed individual for such taxable year.

"(B) SELF-EMPLOYED INDIVIDUAL.—The term 'self-employed individual' means, with respect to any taxable year, an individual who has earned income (as defined in paragraph (2)) for such taxable year. To the extent provided in regulations prescribed by the Secretary, such term also includes, for any taxable year—

"(i) an individual who would be a self-employed individual within the meaning of the preceding sentence but for the fact that the trade or business carried on by such individual did not have net profits for the taxable year, and

"(ii) an individual who has been a self-employed individual within the meaning of the preceding sentence for any prior taxable year."

(2) Subparagraph (A) of section 401(c)(2) (defining earned income) is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) with regard to the deductions allowed by sections 404 and 405(c) to the taxpayer."

(3) Subsection (j) of section 408 is amended to read as follows: 26 USC 408.

"(j) INCREASE IN MAXIMUM LIMITATIONS FOR SIMPLIFIED EMPLOYEE PENSIONS.—In the case of any simplified employee pension, subsections (a)(1) and (b)(2) of this section shall be applied by increasing the $2,000 amounts contained therein by the amount of the limitation in effect under section 415(c)(1)(A)."

(4)(A) Paragraph (6) of section 408(k) is hereby repealed.

(B) Paragraph (1) of section 408(k) is amended by striking out "(5), and (6)" and inserting in lieu thereof "and (5)".

(C) Subparagraph (C) of section 408(k)(3) is amended to read as follows:

"(C) CONTRIBUTIONS MUST BEAR UNIFORM RELATIONSHIP TO TOTAL COMPENSATION.—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless contributions thereto bear a uniform relationship to the total compensation (not in excess of the first $200,000) of each employee maintaining a simplified employee pension."

(5) Paragraph (5) of section 415(c) (relating to application with section 404(e)) is hereby repealed. 26 USC 415.

SEC. 239. ALLOWANCE OF EXCLUSION OF DEATH BENEFIT FOR SELF-EMPLOYED INDIVIDUALS.

26 USC 101.

Paragraph (3) of section 101(b) (relating to self-employed individual not considered as employee) is amended to read as follows:

"(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection—

"(A) SELF-EMPLOYED INDIVIDUAL NOT CONSIDERED EMPLOYEE.—Except as provided in subparagraph (B), the term 'employee' does not include a self-employed individual described in section 401(c)(1).

"(B) SPECIAL RULE FOR CERTAIN LUMP SUM DISTRIBUTIONS.—In the case of any lump sum distribution described in the second sentence of paragraph (2)(B), the term 'employee' includes a self-employed individual described in section 401(c)(1)."

SEC. 240. SPECIAL RULES FOR TOP-HEAVY PLANS.

(a) GENERAL RULE.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) is amended by adding at the end thereof the following new section:

26 USC 416.

"SEC. 416. SPECIAL RULES FOR TOP-HEAVY PLANS.

"(a) GENERAL RULE.—A trust shall not constitute a qualified trust under section 401(a) for any plan year if the plan of which it is a part is a top-heavy plan for such plan year unless such plan meets—

"(1) the vesting requirements of subsection (b),

"(2) the minimum benefit requirements of subsection (c), and

"(3) the limitation on compensation requirement of subsection (d).

"(b) VESTING REQUIREMENTS.—

"(1) IN GENERAL.—A plan satisfies the requirements of this subsection if it satisfies the requirements of either of the following subparagraphs:

"(A) 3-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 3 years of service with the employer or employers maintaining the plan has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

"(B) 6-YEAR GRADED VESTING.—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions determined under the following table:

"Years of service	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100

"(2) CERTAIN RULES MADE APPLICABLE.—Except to the extent inconsistent with the provisions of this subsection, the rules of section 411 shall apply for purposes of this subsection.

"(c) PLAN MUST PROVIDE MINIMUM BENEFITS.—

"(1) DEFINED BENEFIT PLANS.—

"(A) IN GENERAL.—A defined benefit plan meets the requirements of this subsection if the accrued benefit

derived from employer contributions of each participant who is a non-key employee, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's average compensation for years in the testing period.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the lesser of—

"(i) 2 percent multiplied by the number of years of service with the employer, or

"(ii) 20 percent.

"(C) YEARS OF SERVICE.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), years of service shall be determined under the rules of paragraphs (4), (5), and (6) of section 411(a). 26 USC 411.

"(ii) EXCEPTION FOR YEARS DURING WHICH PLAN WAS NOT TOP-HEAVY.—A year of service with the employer shall not be taken into account under this paragraph if—

"(I) the plan was not a top-heavy plan for any plan year ending during such year of service, or

"(II) such year of service was completed in a plan year beginning before January 1, 1984.

"(D) AVERAGE COMPENSATION FOR HIGH 5 YEARS.—For purposes of this paragraph—

"(i) IN GENERAL.—A participant's testing period shall be the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) YEAR MUST BE INCLUDED IN YEAR OF SERVICE.—The years taken into account under clause (i) shall be properly adjusted for years not included in a year of service.

"(iii) CERTAIN YEARS NOT TAKEN INTO ACCOUNT.—Except to the extent provided in the plan, a year shall not be taken into account under clause (i) if—

"(I) such year ends in a plan year beginning before January 1, 1984, or

"(II) such year begins after the close of the last year in which the plan was a top-heavy plan.

"(E) ANNUAL RETIREMENT BENEFIT.—For purposes of this paragraph, the term 'annual retirement benefit' means a benefit payable annually in the form of a single life annuity (with no ancillary benefits) beginning at the normal retirement age under the plan.

"(2) DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—A defined contribution plan meets the requirements of the subsection if the employer contribution for the year for each participant who is a non-key employee is not less than 3 percent of such participant's compensation (within the meaning of section 415).

"(B) SPECIAL RULE WHERE MAXIMUM CONTRIBUTION LESS THAN 3 PERCENT.—

"(i) IN GENERAL.—The percentage referred to in subparagraph (A) for any year shall not exceed the percentage at which contributions are made (or required to be made) under the plan for the year for the key

employee for whom such percentage is the highest for the year.

"(ii) DETERMINATION OF PERCENTAGE.—The determination referred to in clause (i) shall be determined for each key employee by dividing the contributions for such employee by so much of his total compensation for the year as does not exceed $200,000.

"(iii) TREATMENT OF AGGREGATION GROUPS.—

"(I) For purposes of this subparagraph, all defined contribution plans required to be included in an aggregation group under subsection (g)(2)(A)(i) shall be treated as one plan.

"(II) This subparagraph shall not apply to any plan required to be included in an aggregation group if such plan enables a defined benefit plan required to be included in such group to meet the requirements of section 401(a)(4) or 410.

26 USC 401, 410.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—For purposes of this paragraph, any employer contribution attributable to a salary reduction or similar arrangement shall not be taken into account.

"(d) NOT MORE THAN $200,000 IN ANNUAL COMPENSATION TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if the annual compensation of each employee taken into account under the plan does not exceed the first $200,000.

"(2) COST-OF-LIVING ADJUSTMENTS.—The Secretary shall annually adjust the $200,000 amount contained in paragraph (1) of this subsection and in clause (ii) of subsection (c)(2)(B) in the same manner as he adjusts the dollar amount contained in section 415(c)(1)(A).

"(e) PLAN MUST MEET REQUIREMENTS WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS.—A top-heavy plan shall not be treated as meeting the requirement of subsection (b) or (c) unless such plan meets such requirement without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, or any other Federal or State law.

26 USC 1401 *et seq.*
26 USC 3101 *et seq.*
42 USC 401.

"(f) COORDINATION WHERE EMPLOYER HAS 2 OR MORE PLANS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section where the employer has 2 or more plans including (but not limited to) regulations to prevent inappropriate omissions or require duplication of minimum benefits or contributions.

"(g) TOP-HEAVY PLAN DEFINED.—For purposes of this section—

"(1) IN GENERAL.—

"(A) PLANS NOT REQUIRED TO BE AGGREGATED.—Except as provided in subparagraph (B), the term 'top-heavy plan' means, with respect to any plan year—

"(i) any defined benefit plan if, as of the determination date, the present value of the cumulative accrued benefits under the plan for key employees exceeds 60 percent of the present value of the cumulative accrued benefits under the plan for all employees, and

"(ii) any defined contribution plan if, as of the determination date, the aggregate of the accounts of key

employees under the plan exceeds 60 percent of the aggregate of the accounts of all employees under such plan.

"(B) AGGREGATED PLANS.—Each plan of an employer required to be included in an aggregation group shall be treated as a top-heavy plan if such group is a top-heavy group.

"(2) AGGREGATION.—For purposes of this subsection—

"(A) AGGREGATION GROUP.—

"(i) REQUIRED AGGREGATION.—The term 'aggregation group' means—

"(I) each plan of the employer in which a key employee is a participant, and

"(II) each other plan of the employer which enables any plan described in subclause (I) to meet the requirements of section 401(a)(4) or 410. 26 USC 401, 410.

"(ii) PERMISSIVE AGGREGATION.—The employer may treat any plan not required to be included in an aggregation group under clause (i) as being part of such group if such group would continue to meet the requirements of sections 401(a)(4) and 410 with such plan being taken into account.

"(B) TOP-HEAVY GROUP.—The term 'top-heavy group' means any aggregation group if—

"(i) the sum (as of the determination date) of—

"(I) the present value of the cumulative accrued benefits for key employees under all defined benefit plans included in such group, and

"(II) the aggregate of the accounts of key employees under all defined contribution plans included in such group,

"(ii) exceeds 60 percent of a similar sum determined for all employees.

"(3) DISTRIBUTIONS DURING LAST 5 YEARS TAKEN INTO ACCOUNT.—For purposes of determining—

"(A) the present value of the cumulative accrued benefit for any employee, or

"(B) the amount of the account of any employee,

such present value or amount shall be increased by the aggregate distributions made with respect to such employee under the plan during the 5-year period ending on the determination date.

"(4) OTHER SPECIAL RULES.—For purposes of this subsection—

"(A) ROLLOVER CONTRIBUTIONS TO PLAN NOT TAKEN INTO ACCOUNT.—Except to the extent provided in regulations, any rollover contribution (or similar transfer) initiated by the employee and made after December 31, 1983, to a plan shall not be taken into account with respect to the transferee plan for purposes of determining whether such plan is a top-heavy plan (or whether any aggregation group which includes such plan is a top-heavy group).

"(B) BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE CEASES TO BE KEY EMPLOYEE.—If any individual is a non-key employee with respect to any plan for any plan year, but such individual was a key employee with respect to such plan for any prior plan year, any accrued benefit for such

employee (and the account of such employee) shall not be taken into account.

"(C) DETERMINATION DATE.—The term 'determination date' means, with respect to any plan year—

"(i) the last day of the preceding plan year, or

"(ii) in the case of the first plan year of any plan, the last day of such plan year.

"(D) YEARS.—To the extent provided in regulations, this section shall be applied on the basis of any year specified in such regulations in lieu of plan years.

"(h) ADJUSTMENTS IN SECTION 415 LIMITS FOR TOP-HEAVY PLANS.—

"(1) IN GENERAL.—In the case of any top-heavy plan, paragraphs (2)(B) and (3)(B) of section 415(e) shall be applied by substituting '1.0' for '1.25'.

Ante, p. 506.

"(2) EXCEPTION WHERE BENEFITS FOR KEY EMPLOYEES DO NOT EXCEED 90 PERCENT OF TOTAL BENEFITS AND ADDITIONAL CONTRIBUTIONS ARE MADE FOR NON-KEY EMPLOYEES.—Paragraph (1) shall not apply with respect to any top-heavy plan if the requirements of subparagraphs (A) and (B) of this paragraph are met with respect to such plan.

"(A) MINIMUM BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any top-heavy plan if such plan (and any plan required to be included in an aggregation group with such plan) meets the requirements of subsection (c) as modified by clause (ii).

"(ii) MODIFICATIONS.—For purposes of clause (i)—

"(I) paragraph (1)(B) of subsection (c) shall be applied by substituting '3 percent' for '2 percent', and by increasing (but not by more than 10 percentage points) 20 percent by 1 percentage point for each year for which such plan was taken into account under this subsection, and

"(II) paragraph (2)(A) shall be applied by substituting '4 percent' for '3 percent'.

"(B) BENEFITS FOR KEY EMPLOYEES CANNOT EXCEED 90 PERCENT OF TOTAL BENEFITS.—A plan meets the requirements of this subparagraph if such plan would not be a top-heavy plan if '90 percent' were substituted for '60 percent' each place it appears in paragraphs (1)(A) and (2)(B) of subsection (g).

"(3) TRANSITION RULE.—If, but for this paragraph, paragraph (1) would begin to apply with respect to any top-heavy plan, the application of paragraph (1) shall be suspended with respect to any individual so long as there are no—

"(A) employer contributions, forfeitures, or voluntary nondeductible contributions allocated to such individual, or

"(B) accruals for such individual under the defined benefit plan.

"(4) COORDINATION WITH TRANSITIONAL RULE UNDER SECTION 415.—In the case of any top-heavy plan to which paragraph (1) applies, section 415(e)(6)(B)(i) shall be applied by substituting '$41,500' for '$51,875'.

"(i) DEFINITIONS.—For purposes of this section—

"(1) KEY EMPLOYEE.—

"(A) IN GENERAL.—The term 'key employee' means any participant in an employer plan who, at any time during the plan year or any of the 4 preceding plan years, is—

"(i) an officer of the employer,

"(ii) 1 of the 10 employees owning (or considered as owning within the meaning of section 318) the largest interests in the employer, 26 USC 318.

"(iii) a 5-percent owner of the employer, or

"(iv) a 1-percent owner of the employer having an annual compensation from the employer of more than $150,000.

For purposes of clause (i), no more than 50 employees (or, if lesser, the greater of 3 or 10 percent of the employees) shall be treated as officers.

"(B) PERCENTAGE OWNERS.—

"(i) 5-PERCENT OWNER.—For purposes of this paragraph, the term '5-percent owner' means—

"(I) if the employer is a corporation, any person who owns (or is considered as owning within the meaning of section 318) more than 5 percent of the outstanding stock of the corporation or stock possessing more than 5 percent of the total combined voting power of all stock of the corporation, or

"(II) if the employer is not a corporation, any person who owns more than 5 percent of the capital or profits interest in the employer.

"(ii) 1-PERCENT OWNER.—For purposes of this paragraph, the term '1-percent owner' means any person who would be described in clause (i) if '1 percent' were substituted for '5 percent' each place it appears in clause (i).

"(iii) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of this subparagraph and subparagraph (A)(ii)((II)—

"(I) subparagraph (C) of section 318(a)(2) shall be applied by substituting '5 percent' for '50 percent', and

"(II) in the case of any employer which is not a corporation, ownership in such employer shall be determined in accordance with regulations prescribed by the Secretary which shall be based on principles similar to the principles of section 318 (as modified by subclause (I)).

"(C) AGGREGATION RULES DO NOT APPLY FOR PURPOSES OF DETERMINING 5-PERCENT OR 1-PERCENT OWNERS.—The rules of subsections (b), (c), and (m) of section 414 shall not apply for purposes of determining ownership in the employer.

"(2) NON-KEY EMPLOYEE.—The term 'non-key employee' means any employee who is not a key employee.

"(3) SELF-EMPLOYED INDIVIDUALS.—In the case of a self-employed individual described in section 401(c)(1)—

"(A) such individual shall be treated as an employee, and

"(B) such individual's earned income (within the meaning of section 401(c)(2)) shall be treated as compensation.

"(4) TREATMENT OF EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—The requirements of subsections (b), (c), and (d) shall not apply with respect to any employee included in a unit of employees covered by an agreement which the Secre-

tary of Labor finds to be a collective bargaining agreement between employee representatives and 1 or more employers if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(5) TREATMENT OF BENEFICIARIES.—The terms 'employee' and 'key employee' include their beneficiaries.

"(6) TREATMENT OF SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) TREATMENT AS DEFINED CONTRIBUTION PLANS.—A simplified employee pension shall be treated as a defined contribution plan.

"(B) ELECTION TO HAVE DETERMINATIONS BASED ON EMPLOYER CONTRIBUTIONS.—In the case of a simplified employee pension, at the election of the employer, paragraphs (1)(A)(ii) and (2)(B) of subsection (g) shall be applied by taking into account aggregate employer contributions in lieu of the aggregate of the accounts of employees."

(b) QUALIFICATION REQUIREMENTS.—Paragraph (10) of section 401(a) (relating to other requirements) is amended by adding at the end thereof the following new subparagraph:

Ante, p. 512.

"(B) TOP-HEAVY PLANS.—

"(i) IN GENERAL.—In the case of any top-heavy plan, a trust forming part of such plan shall constitute a qualified trust under this section only if the requirements of section 416 are met.

"(ii) PLANS WHICH MAY BECOME TOP-HEAVY.—Except to the extent provided in regulations, a trust forming part of a plan (whether or not a top-heavy plan) shall constitute a qualified trust under this section only if such plan contains provisions—

"(I) which will take effect if such plan becomes a top-heavy plan, and

"(II) which meet the requirements of section 416."

(c) TECHNICAL AMENDMENTS.—

26 USC 414.

(1) Subsections (b) and (c) of section 414 (relating to employees of controlled groups) are each amended by striking out "and 415" and inserting in lieu thereof "415, and 416".

(2) Paragraph (4) of section 414(m) (relating to employees of an affiliated service group) is amended by striking out "and 415" in subparagraph (B), and inserting in lieu there of "415, and 416".

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 416. Special rules for top-heavy plans."

26 USC 416 note.

SEC. 241. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to years beginning after December 31, 1983.

(b) ALLOWANCE OF EXCLUSION OF DEATH BENEFIT FOR SELF-EMPLOYED INDIVIDUALS.—The amendment made by section 239 shall apply with respect to decedents dying after December 31, 1983.

PART III—OTHER REQUIREMENTS

SEC. 242. REQUIRED DISTRIBUTIONS FOR QUALIFIED PLANS.

(a) GENERAL RULE.—Paragraph (9) of section 401(a) (relating to requirements for qualification) is amended to read as follows: 26 USC 401.

"(9) REQUIRED DISTRIBUTIONS.—

"(A) BEFORE DEATH.—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that the entire interest of each employee—

"(i) either will be distributed to him not later than his taxable year in which he attains age 70½ or, in the case of an employee other than a key employee who is a participant in a top-heavy plan, in which he retires, whichever is the later, or

"(ii) will be distributed, commencing not later than such taxable year—

"(I) in accordance with regulations prescribed by the Secretary, over the life of such employee or over the lives of such employee and his spouse, or

"(II) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and his spouse.

"(B) AFTER DEATH.—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that if—

"(i) an employee dies before his entire interest has been distributed to him, or

"(ii) distribution has been commenced in accordance with subparagraph (A)(ii) to his surviving spouse and such surviving spouse dies before his entire interest has been distributed to such surviving spouse,

his entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of his surviving spouse). The preceding sentence shall not apply if the distribution of the interest of the employee has commenced and such distribution is for a term certain over a period permitted under subparagraph (A)(ii)(II)."

(b) EFFECTIVE DATE.— 26 USC 401 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1983.

(2) TRANSITION RULE.—A trust forming part of a plan shall not be disqualified under paragraph (9) of section 401(a) of the Internal Revenue Code of 1954, as amended by subsection (a), by reason of distributions under a designation (before January 1, 1984) by any employee of a method of distribution—

(A) which does not meet the requirements of such paragraph (9), but

(B) which would not have disqualified such trust under paragraph (9) of section 401(a) of such Code as in effect before the amendment made by subsection (a).

SEC. 243. REQUIRED DISTRIBUTIONS IN CASE OF INDIVIDUAL RETIREMENT PLANS.

(a) REQUIRED DISTRIBUTIONS AFTER DEATH.—

26 USC 408.

(1) INDIVIDUAL RETIREMENT ACCOUNTS.—Paragraph (7) of section 408(a) (defining individual retirement account) is amended to read as follows:

"(7) If—

"(A) an individual for whose benefit the trust is maintained dies before his entire interest has been distributed to him, or

"(B) distribution has been commenced as provided in paragraph (6) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse,

the entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of the surviving spouse). The preceding sentence shall not apply if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (6)."

(2) INDIVIDUAL RETIREMENT ANNUITIES.—Paragraph (4) of section 408(b) (defining individual retirement annuity) is amended to read as follows:

"(4) If—

"(A) the owner dies before his entire interest has been distributed to him, or

"(B) distribution has been commenced as provided in paragraph (3) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse,

the entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of his surviving spouse). The preceding sentence shall not apply if distributions over a term certain commenced before the death of the owner and the term certain is for a period permitted under paragraph (3)."

(b) TREATMENT OF INHERITED INDIVIDUAL RETIREMENT PLANS.—

(1) DENIAL OF ROLLOVER TREATMENT.—

(A) Paragraph (3) of section 408(d) (defining rollover contributions) is amended by adding at the end thereof the following new subparagraph:

"(C) DENIAL OF ROLLOVER TREATMENT FOR INHERITED ACCOUNTS, ETC.—

"(i) IN GENERAL.—In the case of an inherited individual retirement account or individual retirement annuity—

"(I) this paragraph shall not apply to any amount received by an individual from such an account or annuity (and no amount transferred from such account or annuity to another individual retirement account or annuity shall be excluded from gross income by reason of such transfer), and

"(II) such inherited account or annuity shall not be treated as an individual retirement account or annuity for purposes of determining whether any other amount is a rollover contribution.

"(ii) INHERITED INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY.—An individual retirement account or indi-

vidual retirement annuity shall be treated as inherited if—

"(I) the individual for whose benefit the account or annuity is maintained acquired such account by reason of the death of another individual, and

"(II) such individual was not the surviving spouse of such other individual."

(B) Subparagraph (C) of section 409(b)(3) (relating to rollover into an individual retirement account or annuity or a qualified plan) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any retirement bond if such bond is acquired by the owner by reason of the death of another individual and the owner was not the surviving spouse of such other individual." 26 USC 409.

(2) DENIAL OF DEDUCTION FOR CONTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph: 95 Stat. 274.

"(4) DENIAL OF DEDUCTION FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No deduction shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii))."

(c) EFFECTIVE DATES.— 26 USC 408 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply in the case of individuals dying after December 31, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

SEC. 244. LIMITATION ON EXCLUSION FOR GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) GENERAL RULE.—Section 79 (relating to group-term life insurance purchased for employees) is amended by adding at the end thereof the following new subsection: 26 USC 79.

"(d) NONDISCRIMINATION REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a discriminatory group-term life insurance plan, paragraph (1) of subsection (a) shall not apply with respect to any key employee.

"(2) DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLAN.—For purposes of this subsection, the term 'discriminatory group-term life insurance plan' means any plan of an employer for providing group-term life insurance unless—

"(A) the plan does not discriminate in favor of key employees as to eligibility to participate, and

"(B) the type and amount of benefits available under the plan do not discriminate in favor of participants who are key employees.

"(3) NONDISCRIMINATORY ELIGIBILITY CLASSIFICATION.—

"(A) IN GENERAL.—A plan does not meet requirements of subparagraph (A) of paragraph (2) unless—

"(i) such plan benefits 70 percent or more of all employees of the employer,

"(ii) at least 85 percent of all employees who are participants under the plan are not key employees,

"(iii) such plan benefits such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of key employees, or

"(iv) in the case of a plan which is part of a cafeteria plan, the requirements of section 125 are met.

"(B) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of subparagraph (A), there may be excluded from consideration—

"(i) employees who have not completed 3 years of service;

"(ii) part-time or seasonal employees;

"(iii) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if the benefits provided under the plan were the subject of good faith bargaining between such employee representatives and such employer or employers; and

"(iv) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(4) NONDISCRIMINATORY BENEFITS.—A plan does not meet the requirements of paragraph (2)(B) unless all benefits available to participants who are key employees are available to all other participants.

"(5) SPECIAL RULE.—A plan shall not fail to meet the requirements of paragraph (2)(B) merely because the amount of life insurance on behalf of the employees under the plan bears a uniform relationship to the total compensation or the basic or regular rate of compensation of such employees.

"(6) KEY EMPLOYEE DEFINED.—For purposes of this subsection, the term 'key employee' has the meaning given to such term by paragraph (1) of section 416(i), except that subparagraph (A)(iv) of such paragraph shall be applied by not taking into account employees described in paragraph (3)(B) who are not participants in the plan.

Ante, p. 514.

"(7) CERTAIN CONTROLLED GROUPS, ETC.—All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section."

26 USC 79 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 245. LIMITATION ON ESTATE TAX EXCLUSIONS UNDER SECTION 2039.

26 USC 2039.

(a) GENERAL RULE.—Section 2039 (relating to annuities) is amended by adding at the end thereof the following new subsection:

"(g) $100,000 LIMITATION ON EXCLUSIONS UNDER SUBSECTIONS (c) AND (e).—The aggregate amount excluded from the gross estate of any decedent under subsections (c) and (e) of this section shall not exceed $100,000."

(b) TECHNICAL AMENDMENTS.—Subsections (c) and (e) of section 2039 are each amended by striking out "Notwithstanding the provi-

sions of this section" and inserting in lieu thereof "Subject to the limitation of subsection (g), notwithstanding any other provision of this section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1982. 26 USC 2039 note.

SEC. 246. ORGANIZATIONS PERFORMING MANAGEMENT FUNCTIONS.

(a) GENERAL RULE.—Subsection (m) of section 414 (relating to employees of an affiliated service group) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph: 26 USC 414.

"(5) CERTAIN ORGANIZATIONS PERFORMING MANAGEMENT FUNCTIONS.—For purposes of this subsection, the term 'affiliated service group' also includes a group consisting of—

"(A) an organization the principal business of which is performing, on a regular and continuing basis, management functions for 1 organization (or for 1 organization and other organizations related to such 1 organization), and

"(B) the organization (and related organizations) for which such functions are so performed by the organization described in subparagraph (A).

For purposes of this paragraph, the term 'related organizations' has the same meaning as the term 'related persons' when used in section 103(b)(6)(C)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1983. 26 USC 414 note.

SEC. 247. EXISTING PERSONAL SERVICE CORPORATIONS MAY LIQUIDATE UNDER SECTION 333 DURING 1983 OR 1984.

(a) IN GENERAL.—In the case of a complete liquidation of a personal service corporation (within the meaning of section 535(c)(2)(B) of the Internal Revenue Code of 1954) during 1983 or 1984, the following rules shall apply with respect to any shareholder other than a corporation: 26 USC 333 note.

(1) The determination of whether section 333 of such Code applies shall be made without regard to whether the corporation is a collapsible corporation to which section 341(a) of such Code applies.

(2) No gain or loss shall be recognized by the liquidating corporation on the distribution of any unrealized receivable in such liquidation.

(3)(A) Except as provided in subparagraph (C), any disposition by a shareholder of any unrealized receivable received in the liquidation shall be treated as a sale at fair market value of such receivable and any gain or loss shall be treated as ordinary gain or loss.

(B) For purposes of subparagraph (A), the term "disposition" includes—

(i) failing to hold the property in the trade or business which generated the receivables, and

(ii) failing to hold a continuing interest in such trade or business.

(C) For purposes of subparagraph (A), the term "disposition" does not include transmission at death to the estate of the decedent or transfer to a person pursuant to the right of such person to receive such property by reason of the death of the

decedent or by bequest, devise, or inheritance from the decedent.

(4) Unrealized receivables distributed in the liquidation shall be treated as having a zero basis.

(5) For purposes of computing earnings and profits, the liquidating corporation shall not treat unrealized receivables distributed in the liquidation as an item of income.

(b) UNREALIZED RECEIVABLES DEFINED.—For purposes of this section, the term "unrealized receivables" has the meaning given such term by the first sentence of section 751(c) of such Code.

SEC. 248. EMPLOYEE LEASING.

26 USC 414.

(a) GENERAL RULE.—Section 414 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(n) EMPLOYEE LEASING.—

"(1) IN GENERAL.—For purposes of the pension requirements listed in paragraph (3), except to the extent otherwise provided in regulations, with respect to any person (hereinafter in this subsection referred to as the 'recipient') for whom a leased employee performs services—

"(A) the leased employee shall be treated as an employee of the recipient, but

"(B) contributions or benefits provided by the leasing organization which are attributable to services performed for the recipient shall be treated as provided by the recipient.

"(2) LEASED EMPLOYEE.—For purposes of paragraph (1), the term 'leased employee' means any person who provides services to the recipient if—

"(A) such services are provided pursuant to an agreement between the recipient and any other person (in this subsection referred to as the 'leasing organization'),

"(B) such person has performed such services for the recipient (or for the recipient and related persons) on a substantially full-time basis for a period of at least 1 year, and

"(C) such services are of a type historically performed, in the business field of the recipient, by employees.

"(3) PENSION REQUIREMENTS.—For purposes of this subsection, the pension requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and (16) of section 401(a), and

Ante, p. 514.

"(B) sections 408(k), 410, 411, 415, and 416.

"(4) TIME WHEN LEASED EMPLOYEE IS FIRST CONSIDERED AS EMPLOYEE.—In the case of any leased employee, paragraph (1) shall apply only for purposes of determining whether the pension requirements listed in paragraph (3) are met for periods after the close of the 1-year period referred to in paragraph (2); except that years of service for the recipient shall be determined by taking into account the entire period for which the leased employee performed services for the recipient (or related persons).

"(5) SAFE HARBOR.—This subsection shall not apply to any leased employee if such employee is covered by a plan which is maintained by the leasing organization if, with respect to such employee, such plan—

"(A) is a money purchase pension plan with a nonintegrated employer contribution rate of at least 7½ percent, and

"(B) provides for immediate participation and for full and immediate vesting.

"(6) RELATED PERSONS.—For purposes of this subsection, the term 'related persons' has the same meaning as when used in section 103(b)(6)(C)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983. 26 USC 414 note.

SEC. 249. NONDISCRIMINATORY COORDINATION OF DEFINED CONTRIBUTION PLANS WITH OASDI.

(a) IN GENERAL.—Section 401 (relating to qualified pension, profit-sharing, stock bonus plans, etc.) is amended by redesignating subsection (l) as subsection (o), and by inserting after subsection (k) the following new subsection: 26 USC 401.

"(l) NONDISCRIMINATORY COORDINATION OF DEFINED CONTRIBUTION PLANS WITH OASDI.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(5), the coordination of a defined contribution plan with OASDI meets the requirements of subsection (a)(4) only if the total contributions with respect to each participant, when increased by the OASDI contributions, bear a uniform relationship—

"(A) to the total compensation of such employee, or

"(B) to the basic or regular rate of compensation of such employee.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) OASDI CONTRIBUTIONS.—The term 'OASDI contributions' means the product of—

"(i) so much of the remuneration paid by the employer to the employee during the plan year as—

"(I) constitutes wages (within the meaning of section 3121(a) without regard to paragraph (1) thereof), and

"(II) does not exceed the contribution and benefit base applicable under OASDI at the beginning of the plan year, multiplied by

"(ii) the rate of tax applicable under section 3111(a) (relating to employer's OASDI tax) at the beginning of the plan year.

In the case of an individual who is an employee within the meaning of subsection (c)(1), the preceding sentence shall be applied by taking into account his earned income (as defined in subsection (c)(2)).

"(B) OASDI.—The term 'OASDI' means the system of old-age, survivors, and disability insurance established under title II of the Social Security Act and the Federal Insurance Contributions Act.

"(C) REMUNERATION.—The term 'remuneration' means—

"(i) total compensation, or

"(ii) basic or regular rate of compensation,

whichever is used in determining contributions or benefits under the plan.

"(3) DETERMINATION OF COMPENSATION, ETC., OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection, in the case of an

individual who is an employee within the meaning of subsection (c)(1)—

"(A) his total compensation shall include his earned income (as defined in subsection (c)(2)), and

"(B) his basic or regular rate of compensation shall be determined (under regulations prescribed by the Secretary) with respect to that portion of his earned income which bears the same ratio to his earned income as the basic or regular compensation of the employees under the plan (other than employees within the meaning of subsection (c)(1)) bears to the total compensation of such employees."

26 USC 401 note. (b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1983.

SEC. 250. AUTHORITY OF SECRETARY TO ALLOCATE INCOME AND DEDUCTIONS IN THE CASE OF CERTAIN CORPORATIONS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 269 the following new section:

26 USC 269A. "SEC. 269A. PERSONAL SERVICE CORPORATIONS FORMED OR AVAILED OF TO AVOID OR EVADE INCOME TAX.

"(a) GENERAL RULE.—If—

"(1) substantially all of the services of a personal service corporation are performed for (or on behalf of) 1 other corporation, partnership, or other entity, and

"(2) the principal purpose for forming, or availing of, such personal service corporation is the avoidance or evasion of Federal income tax by reducing the income of, or securing the benefit of any expense, deduction, credit, exclusion, or other allowance for, any employee-owner which would not otherwise be available,

then the Secretary may allocate all income, deductions, credits, exclusions, and other allowances between such personal service corporation and its employee-owners, if such allocation is necessary to prevent avoidance or evasion of Federal income tax or clearly to reflect the income of the personal service corporation or any of its employee-owners.

"(b) Definitions.—For purposes of this section—

"(1) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' means a corporation the principal activity of which is the performance of personal services and such services are substantially performed by employee-owners.

"(2) EMPLOYEE-OWNER.—The term 'employee-owner' means any employee who owns, on any day during the taxable year, more than 10 percent of the outstanding stock of the personal service corporation. For purposes of the preceding sentence, section 318 shall apply, except that '5 percent' shall be substituted for '50 percent' in section 318(a)(2)(C).

"(3) RELATED PERSONS.—All related persons (within the meaning of section 103(b)(6)(C)) shall be treated as 1 entity."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter 1 is amended by inserting after the item relating to section 269 the following new item:

"Sec. 269A. Personal service corporations formed or availed of to avoid or evade income tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. 26 USC 269A note.

PART IV—MISCELLANEOUS

SEC. 251. CHURCH PLANS.

(a) EXCLUSION ALLOWANCE.—

(1) ELECTION TO HAVE SECTION 415 RULES APPLY.—Subparagraph (B) of section 403(b)(2) (relating to exclusion allowance) is amended by striking out "(under section 415)" and inserting in lieu thereof "(under section 415 without regard to section 415(c)(8))". 26 USC 403.

(2) YEARS OF SERVICE.—Section 403(b)(2) is amended by adding at the end thereof the following new subparagraphs:

"(C) NUMBER OF YEARS OF SERVICE FOR DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTERS OR LAY EMPLOYEES.—For purposes of this subsection and section 415(c)(4)(A)—

"(i) all years of service by—

"(I) a duly ordained, commissioned, or licensed minister of a church, or

"(II) a lay person,

as an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), shall be considered as years of service for 1 employer, and

"(ii) all amounts contributed for annuity contracts by each such church (or convention or association of churches) or such organization during such years for such minister or lay person shall be considered to have been contributed by 1 employer.

For purposes of the preceding sentence, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).

"(D) ALTERNATIVE EXCLUSION ALLOWANCE.—

"(i) IN GENERAL.—In the case of any individual described in subparagraph (C), the amount determined under subparagraph (A) shall not be less than the lesser of—

"(I) $3,000, or

"(II) the includible compensation of such individual.

"(ii) SUBPARAGRAPH NOT TO APPLY TO INDIVIDUALS WITH ADJUSTED GROSS INCOME OVER $17,000.—This subparagraph shall not apply with respect to any taxable year to any individual whose adjusted gross income for such taxable year (determined separately and without regard to any community property laws) exceeds $17,000.

"(iii) SPECIAL RULE FOR FOREIGN MISSIONARIES.—In the case of an individual described in subparagraph (C)(i) performing services outside the United States, there shall be included as includible compensation for any year under clause (i)(II) any amount contributed during such year by a church (or convention or association of churches) for an annuity contract with respect to such individual."

(b) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—
26 USC 403. Section 403(b) is amended by adding at the end thereof the following new paragraph:

"(9) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title—

"(i) a retirement income account shall be treated as an annuity contract described in this subsection, and

"(ii) amounts paid by an employer described in paragraph (1)(A) to a retirement income account shall be treated as amounts contributed by the employer for an annuity contract for the employee on whose behalf such account is maintained.

"(B) RETIREMENT INCOME ACCOUNT.—For purposes of this paragraph, the term 'retirement income account' means a defined contribution program established or maintained by a church, a convention or association of churches, including an organization described in section 414(e)(3)(A), to provide benefits under section 403(b) for an employee described in paragraph (1) or his beneficiaries."

(c) CONTRIBUTION LIMITATIONS.—

(1) APPLICATION OF SECTION 415(c)(4) TO CHURCH PLANS.—
26 USC 415. Paragraph (4) of section 415(c) (relating to special election for section 403(b) contracts) is amended—

(A) by striking out "or a home health service agency" each place it appears and inserting in lieu thereof "a home health service agency, or a church, convention or association of churches, or an organization described in section 414(e)(3)(B)(ii)",

(B) by inserting "(as determined for purposes of section 403(b)(2))" after "service for the employer" in subparagraph (A),

(C) by adding at the end of subparagraph (D) the following new clause:

"(iv) For purposes of this paragraph, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).", and

(D) by striking out "AND HOME HEALTH SERVICE AGENCIES" in the heading and inserting in lieu thereof ", HOME HEALTH SERVICE AGENCIES, AND CERTAIN CHURCHES, ETC.".

(2) TOTAL ANNUAL ADDITIONS.—Section 415(c) (relating to limitation on defined contribution plan) is amended by adding at the end thereof the following paragraph:

"(8) CERTAIN CONTRIBUTIONS BY CHURCH PLANS NOT TREATED AS EXCEEDING LIMITS.—

"(A) ALTERNATIVE EXCLUSION ALLOWANCE.—Any contribution or addition with respect to any participant, when expressed as an annual addition, which is allocable to the
Ante, p. 529. application of section 403(b)(2)(D) to such participant for such year, shall be treated as not exceeding the limitations of paragraph (1).

"(B) CONTRIBUTIONS NOT IN EXCESS OF $40,000 ($10,000 PER YEAR).—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant

who is an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

"(ii) $40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

"(iii) NO ELECTION IF PARAGRAPH (4)(A) ELECTION MADE.—No election may be made under this subparagraph for any year if an election is made under paragraph (4)(A) for such year.

"(C) ANNUAL ADDITION.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2)."

(3) CONFORMING AMENDMENT.—Section 403(b)(2)(B) (relating to exclusion allowance) is amended by striking out "and home health service agencies" and inserting in lieu thereof "home health service agencies, and certain churches, etc." 26 USC 403.

(d) CORRECTION PERIOD FOR CHURCH PLANS.—A church plan (within the meaning of section 414(e) of the Internal Revenue Code of 1954) shall not be treated as not meeting the requirements of section 401 or 403 of such Code if— 26 USC 403 note.

(1) by reason of any change in any law, regulation, ruling, or otherwise such plan is required to be amended to meet such requirements, and

(2) such plan is so amended at the next earliest church convention or such other time as the Secretary of the Treasury or his delegate may prescribe.

(e) EFFECTIVE DATES.— 26 USC 403 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) RETIREMENT INCOME ACCOUNTS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1974.

(3) SECTION 415 AMENDMENTS.—The amendments made by subsection (c) shall apply to years beginning after December 31, 1981.

(4) CORRECTION PERIOD.—The amendment made by subsection (d) shall take effect on July 1, 1982.

(5) SPECIAL RULE FOR EXISTING DEFINED BENEFIT ARRANGEMENTS.—Any defined benefit arrangement which is established by a church or a convention or association of churches (including an organization described in section 414(e)(3)(B)(ii) of the Internal Revenue Code of 1954) and which is in effect on the date of the enactment of this Act shall not be treated as failing to meet the requirements of section 403(b)(2) of such Code merely because it is a defined benefit arrangement.

SEC. 252. DEFERRED COMPENSATION PLANS FOR STATE JUDGES.

26 USC 457 note. Subsection (c) of section 131 of the Revenue Act of 1978 is amended by adding at the end thereof the following new paragraph:

"(3) DEFERRED COMPENSATION PLANS FOR STATE JUDGES.—

"(A) IN GENERAL.—The amendments made by this section shall not apply to any qualified State judicial plan.

"(B) QUALIFIED STATE JUDICIAL PLAN.—For purposes of subparagraph (A), the term 'qualified State judicial plan' means any retirement plan of a State for the exclusive benefit of judges or their beneficiaries if—

"(i) such plan has been continuously in existence since December 31, 1978,

"(ii) under such plan, all judges eligible to benefit under the plan—

"(I) are required to participate, and

"(II) are required to contribute the same fixed percentage of their basic or regular rate of compensation as judge,

"(iii) under such plan, no judge has an option as to contributions or benefits the exercise of which would affect the amount of includible compensation,

"(iv) the retirement payments of a judge under the plan are a percentage of the compensation of judges of that State holding similar positions, and

"(v) the plan during any year does not pay benefits with respect to any participant which exceed the limitations of section 415(b) of the Internal Revenue Code of 1954."

SEC. 253. PROFIT-SHARING PLAN CONTRIBUTIONS ON BEHALF OF DISABLED.

26 USC 415. (a) IN GENERAL.—Paragraph (3) of section 415(c) (defining participant's compensation) is amended to read as follows:

"(3) PARTICIPANT'S COMPENSATION.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'participant's compensation' means the compensation of the participant from the employer for the year.

"(B) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—In the case of an employee within the meaning of section 401(c)(1), subparagraph (A) shall be applied by substituting 'the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911)' for 'compensation of the participant from the employer'.

"(C) SPECIAL RULES FOR PERMANENT AND TOTAL DISABILITY.—In the case of a participant—

"(i) who is permanently and totally disabled (as defined in section 105(d)(4)),

"(ii) who is not an officer, owner, or highly compensated, and

"(iii) with respect to whom the employer elects, at such time and in such manner as the Secretary may prescribe, to have this subparagraph apply,

the term 'participant's compensation' means the compensation the participant would have received for the year if the participant was paid at the rate of compensation paid

immediately before becoming permanently and totally disabled. This subparagraph shall only apply if contributions made with respect to such participant are nonforfeitable when made."

(b) DEDUCTIBILITY.—Subparagraph (B) of section 404(a)(3) (relating to limits on deductible contributions to stock bonus and profit-sharing trusts) is amended by adding at the end thereof the following: "The term 'compensation otherwise paid or accrued during the taxable year to all employees' shall include any amount with respect to which an election under section 415(c)(3)(C) is in effect, but only to the extent that any contribution with respect to such amount is nonforfeitable." 26 USC 404.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981. 26 USC 404 note.

SEC. 254. EXEMPTION FOR TRUSTS WHICH INCLUDE GOVERNMENTAL PLANS.

(a) IN GENERAL.—Section 401(a) (relating to requirements of qualification for qualified pension, profit-sharing, and stock bonus plans) is amended by inserting immediately after paragraph (23) the following new paragraph: 26 USC 401.

"(24) Any group trust which otherwise meets the requirements of this section shall not be treated as not meeting such requirements on account of the participation or inclusion in such trust of the moneys of any plan or governmental unit described in section 805(d)(6)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1981. 26 USC 401 note.

Subtitle D—Taxation of Life Insurance Companies and Annuities

PART I—COINSURANCE ARRANGEMENTS

Subpart A—Modified Coinsurance Contracts

SEC. 255. REPEAL OF OPTIONAL TREATMENT OF POLICIES REINSURED UNDER MODIFIED COINSURANCE CONTRACTS.

(a) REPEAL OF SECTION 820.—Section 820 (relating to optional treatment of policies reinsured under modified coinsurance contracts) is repealed. 26 USC 820.

(b) CONFORMING AMENDMENTS.—

(1) Section 811 (relating to dividends to policyholders) is amended by adding at the end thereof the following new subsection: 26 USC 811.

"(c) SPECIAL RULE FOR DIVIDENDS TO POLICYHOLDERS UNDER REINSURANCE CONTRACTS.—If, under the terms of a conventional coinsurance contract, a life insurance company (hereinafter referred to as 'the reinsurer') is obligated to reimburse another life insurance company (hereinafter referred to as 'the reinsured') for dividends to policyholders on the policies reinsured, the amount of the deduction for dividends reimbursed shall, for purposes of section 809(d)(12), be equal to the amount of dividends to policyholders— *Post*, p. 534.

"(1) which were paid by the reinsured, and

"(2) with respect to which the reinsurer reimbursed the reinsured under the terms of such contract.

The amount determined under the preceding sentence shall be properly adjusted to reflect the adjustments under subsection (b)(1)."

26 USC 809.

(2) The first sentence of section 809(c)(1) (relating to premiums) is amended to read as follows: "The gross amount of premiums and other consideration, including—

"(A) advance premiums,

"(B) deposits,

"(C) fees,

"(D) assessments,

"(E) consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and

"(F) the amount of dividends to policyholders reimbursed to the taxpayer by a reinsurer in respect of reinsured policies,

on insurance and annuity contracts (including contracts supplementary thereto); less return premiums, and premiums and other consideration arising out of reinsurance ceded."

(3) Section 809(d)(3) (relating to dividends to policyholders) is amended by inserting ", other than the deduction provided under paragraph (12)" before the period at the end thereof.

(4) Section 809(d) (relating to deductions in computing gain and loss from operations) is amended by adding after paragraph (11) thereof the following new paragraph:

"(12) DIVIDENDS REIMBURSED.—The deduction for the amount of dividends to policyholders reimbursed by the taxpayer to another insurance company in respect of policies the taxpayer has reinsured (determined under section 811(c))."

Ante, p. 533.

(5) The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by striking out the item relating to section 820.

Ante, p. 533.

26 USC 809 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) RULES APPLICABLE TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.—

(A) IN GENERAL.—In the case of any taxable year beginning before January 1, 1982—

(i) any determination as to whether any contract met the requirements of subsection (b) of section 820 of the Internal Revenue Code of 1954 (as in effect before its repeal by this section) shall be made solely by reference to the terms of the contract, and

(ii) the treatment of such contract under subsection (c) of such section 820 shall be made in accordance with the regulations under such section which were in effect on December 31, 1981.

(B) PARAGRAPH NOT TO APPLY IF FRAUD INVOLVED.—The provisions of subparagraph (A) shall not apply with respect to any deficiency which the Secretary of the Treasury or his delegate establishes was due to fraud with intent to evade tax.

SEC. 256. SPECIAL ACCOUNTING RULES RELATING TO REPEAL OF SECTION 820. 26 USC 809 note.

(a) IN GENERAL.—For purposes of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the provisions of this section shall apply to any contract—

(1) which was in effect on December 31, 1981, and

(2) to which section 820(a)(1) of such Code (as in effect before its repeal by section 255(a)) applied.

(b) TREATMENT OF RESERVES AND ASSETS.—Except as provided in subsections (c) and (d), the reserves on the contract described in subsection (a) and the assets in relation to such reserves shall—

(1) as of the beginning of taxable year 1982, be treated as the reserves and assets of the reinsurer (and not the reinsured), and

(2) as of the end of taxable year 1982, be treated as the reserves and assets of the reinsured (and not the reinsurer).

(c) ALLOCATION OF CERTAIN SECTION 820(c) ITEMS.—Any amount described in paragraphs (1), (2), (4), and (5) of section 820(c) of such Code (as so in effect) with respect to any contract described in subsection (a) shall, beginning with taxable year 1982, be taken into account by the reinsured and the reinsurer in the same manner as such amounts would be taken into account under a modified coinsurance contract to which section 820(a)(1) of such Code (as so in effect) does not apply.

(d) AMOUNTS TREATED AS RETURNED UNDER THE CONTRACT.—

(1) IN GENERAL.—For taxable year 1982—

(A) in the case of the reinsurer, there shall be allowed as a deduction for ordinary and necessary business expenses under section 809(d)(11) of such Code an amount equal to the termination amount (and such amount shall not otherwise be taken into account in determining gain or loss from operations under section 809 of such Code), and

(B) in the case of the reinsured, the gross amount under section 809(c)(3) of such Code shall be increased by the termination amount.

(2) ADJUSTMENT FOR RESERVES OF REINSURED.—For purposes of subsections (a) and (b) of section 810 of such Code, the amount taken into account as of the close of taxable year 1982 by the reinsured shall be reduced for such taxable year (but not for purposes of determining such amount at the beginning of the next succeeding taxable year) by the excess (if any) of—

(A) the reserves on the contract as of January 1, 1982 (determined under the reinsured's method of computing reserves for tax purposes), over

(B) the termination amount.

This paragraph shall not apply to any portion of any policies with respect to which the taxpayer is both the reinsured and the reinsurer under contracts to which this section applies.

(3) TERMINATION AMOUNT.—For purposes of this subsection, the term "termination amount" means the amount under the contract which the reinsurer would have returned to the reinsured upon termination of the contract if the contract had been terminated as of January 1, 1982.

(4) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT UNDER SECTION 809(d)(5).—Any amount treated as the reserves of the reinsured by reason of subsection (b)(2) shall not be taken into

account under section 809(d)(5) of the Internal Revenue Code of 1954.

(e) 3-YEAR INSTALLMENT PAYMENT OF TAXES OWED BY REINSURER RESULTING FROM REPEAL OF SECTION 820.—

(1) IN GENERAL.—That portion of any tax imposed under chapter 1 of such Code (reduced by the sum of the credits allowable under subpart A of part IV of such chapter) on a reinsurer for taxable year 1982 which is attributable to the excess (if any) of— 26 USC 31.

(A) any decrease in reserves for such taxable year by reason of subsection (b), over

(B) the amount allowable as a deduction for such taxable year by reason of subsection (d)(1)(A),

may, at the election of the reinsurer, be paid in 3 equal annual installments.

(2) TIME FOR PAYMENTS.—

(A) IN GENERAL.—The 3 installments under paragraph (1) shall be paid on March 15 of 1983, 1984, and 1985.

(B) FIRST INSTALLMENT MAY BE MADE IN 2 PAYMENTS.—The reinsurer may elect to pay one-half of the installment due March 15, 1983, on June 15, 1983.

(3) ACCELERATION OF PAYMENTS.—If—

(A) an election is made under paragraph (1), and

(B) before the tax attributable to such excess is paid in full any installment under this section is not paid on or before the date fixed by this section for its payment,

then the extension of time for payment of tax provided in this subsection shall cease to apply, and any portion of the tax payable in installments shall be paid on notice and demand from the Secretary of the Treasury or his delegate.

(4) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under paragraph (1) and a deficiency attributable to the excess has been assessed, the deficiency shall be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid on notice and demand from the Secretary of the Treasury or his delegate. This paragraph shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(5) BOND MAY BE REQUIRED.—If an election is made under this section, section 6165 of the Internal Revenue Code of 1954 shall apply as though the Secretary of the Treasury or his delegate were extending the time for payment of the tax.

(6) EXTENSION OF PERIOD OF LIMITATIONS.—The running of any period of limitations for the collection of the tax with respect to which an election is made under paragraph (1) shall be suspended for the period during which there are any unpaid installments of such tax.

(7) INTEREST ON INSTALLMENTS.—Rules similar to the rules of section 6601(b)(2) of such Code (without regard to the last sentence thereof) shall apply with respect to any tax for which an election is made under paragraph (1).

(f) SPECIAL RULE ALLOWING REINSURED TO REVOKE AN ELECTION UNDER SECTION 820.— *Ante*, p. 533.

(1) IN GENERAL.—In any case in which—

(A) a taxpayer is the reinsured under any contract—

(i) which took effect in 1980 or 1981, and

(ii) with respect to which an election under section 820 of the Internal Revenue Code of 1954 was made, *Ante*, p. 533.

(B) the taxpayer has a loss from operations or its gain from operations (determined without regard to any deduction under paragraphs (3), (5), and (6) of section 809(d) of such Code) for the taxable year in which such contract took effect does not exceed the taxpayer's taxable investment income for such taxable year,

(C) such contract was not a contract with a person who, during the taxable year in which such contract took effect, was a member of the same affiliated group (determined under section 1504 of such Code without regard to subsection (b)) of which the taxpayer is a member, and

(D) the taxpayer makes an election under this subsection within 6 months after the date of the enactment of this Act,

then the provisions of paragraph (2) shall apply.

(2) RULES WHICH APPLY IF THIS SUBSECTION APPLIES.—In any case described in paragraph (1)—

(A) the taxpayer shall, for all taxable years, be treated as not having made an election under section 820 of such Code with respect to the contract described in paragraph (1), but

(B) all other parties to the contract shall be treated as having made such election with respect to such contract for all taxable years.

(g) TAXABLE YEAR 1982.—For purposes of this section, the term "taxable year 1982" means, with respect to any taxpayer, the first taxable year of the taxpayer beginning after December 31, 1981.

(h) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

Subpart B—Other Reinsurance Agreements

SEC. 257. DENIAL OF INTEREST DEDUCTION ON INDEBTEDNESS INCURRED IN CONNECTION WITH REINSURANCE AGREEMENTS.

(a) IN GENERAL.—Section 805(e) (relating to interest paid) is amended by adding at the end thereof the following new sentence: "For purposes of this subpart, the interest paid for any taxable year shall not include any interest paid or accrued after December 31, 1981, by a ceding company (or its affiliates) to any person in connection with a reinsurance agreement (other than interest on account of delay in making periodic settlements of income and expense items under the terms of the agreement)." 26 USC 805.

(b) SPECIAL TRANSITIONAL RULE WHERE AT LEAST 20 PERCENT OF THE LIABILITIES REINSURED ARE PAID IN CASH, ETC.—The amendment made by subsection (a) shall not apply with respect to any interest paid or incurred by a ceding company to a person who is a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) on indebtedness evidenced by a note— 26 USC 805 note.

(1) which was entered into after December 31, 1981, with respect to a reinsurance contract under the terms of which an amount not less than 20 percent of the amounts reinsured was

paid in cash to the reinsurer on the effective date of such contract,

(2) at least 40 percent of the principal of which had been paid by the ceding company in cash as of July 1, 1982, and

(3) the remaining balance of which is paid in cash before January 1, 1983.

SEC. 258. ALLOCATION OF INCOME, ETC. IN THE CASE OF OTHER REINSURANCE AGREEMENTS.

26 USC 818.

(a) IN GENERAL.—Section 818 (relating to accounting provisions) is amended by adding at the end thereof the following new subsection:

"(g) ALLOCATION IN CASE OF REINSURANCE AGREEMENT INVOLVING TAX AVOIDANCE OR EVASION.—In the case of 2 or more related persons (within the meaning of section 1239(b)) who are parties to a reinsurance agreement, the Secretary may—

"(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such agreement, or

"(2) recharacterize any such items,

if he determines that such allocation or recharacterization is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.".

26 USC 818 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to agreements entered into after the date of the enactment of this Act.

PART II—2-YEAR TEMPORARY PROVISIONS RELATING TO TAXATION OF LIFE INSURANCE COMPANIES

SEC. 259. INCREASE IN AMOUNT OF DIVIDEND DEDUCTION ALLOWED; PENSION PLAN RESERVES.

26 USC 809.

(a) INCREASE IN LIMITATION.—Section 809(f) (relating to limitation on certain deductions) is amended to read as follows:

"(f) LIMITATION ON CERTAIN DEDUCTIONS.—

"(1) IN GENERAL.—The amount of the deductions under paragraphs (3), (5), and (6) of subsection (d) shall not exceed the greater of—

"(A) $1,000,000, plus the amount (if any) by which—

"(i) the gain from operations for the taxable year (computed without regard to such deductions), exceeds

"(ii) the taxable investment income for the taxable year, or

"(B) if the taxpayer elects for any taxable year, the amount determined under paragraph (2).

"(2) ALTERNATIVE LIMITATION.—The amount determined under this paragraph for any taxable year shall be equal to the sum of—

"(A) that portion of the deduction under subsection (d)(3) which is allocable to any contract described in section 805(d), and

"(B) an amount equal to the sum of—

"(i) so much of the base amount as does not exceed $1,000,000, plus

"(ii) in the case of—

"(I) a mutual life insurance company, 77.5 percent of the base amount, or

"(II) a stock life insurance company, 85 percent of the base amount.

"(3) REDUCTION IN $1,000,000 AMOUNT FOR LARGE INSURERS.—If the sum of the deductions under paragraphs (3), (5), and (6) of subsection (d) exceeds $4,000,000, then each of the $1,000,000 amounts in paragraphs (1) and (2) shall be reduced (but not below zero) by the amount which bears the same ratio to $1,000,000 as—

"(A) the amount of such excess bears to,

"(B) $4,000,000.

"(4) BASE AMOUNT.—For purposes of paragraph (2)(B), the term 'base amount' means the excess of—

"(A) the amount of the deductions under paragraphs (3) and (5) of subsection (d) for the taxable year, over

"(B) the amount determined under paragraph (2)(A) for such taxable year.

"(5) APPLICATION OF LIMITATION.—The limitation provided by paragraph (1) shall apply first to the amount of the deduction under subsection (d)(3), then to the amount of the deduction under subsection (d)(5), and finally to the amount of the deduction under subsection (d)(6)."

(b) $1,000,000 LIMITATION TO BE APPORTIONED AMONG MEMBERS OF SAME CONTROLLED GROUP.—Section 1561(a) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended— 26 USC 1561.

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma and "and",

(3) by inserting after paragraph (3) the following new paragraph:

"(4) one $1,000,000 amount (adjusted as provided in section 809(f)(3)) for purposes of computing the limitation under paragraph (1) or (2) of section 809(f).", and *Ante*, p. 538.

(4) by striking out "(2) and (3)" and inserting in lieu thereof "(2), (3), and (4)".

(c) CONFORMING AMENDMENTS.—Section 1561(b) (relating to certain short taxable years) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof a comma and "and",

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the amount (adjusted as provided in section 809(f)(3)) to be used in computing the limitation under paragraph (1) or (2) of section 809(f),", and

(4) by striking out "(2), or (3)" and inserting in lieu thereof "(2), (3), or (4)".

SEC. 260. COMPUTATION OF AMOUNT OF LIFE INSURANCE RESERVES.

(a) RESERVES ON CONTRACTS ON WHICH CERTAIN INTEREST IS GUARANTEED BEYOND THE END OF THE TAXABLE YEAR.—Section 818 (relating to accounting provisions), as amended by section 258(a), is amended by adding at the end thereof the following new subsection: *Ante*, p. 538.

"(h) METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.—For purposes of this part (other than section 801), interest payable under any contract which is computed at a rate which—

"(1) is in excess of the lowest rates which are assumed under such contract for any period in calculating the reserves under section 810(c) for the contract under which such interest is payable, and

"(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year."

26 USC 805.

(b) PROHIBITION AGAINST DEDUCTION OF INTEREST IN EXCESS OF AMOUNT CREDITED TO GROUP PENSION POLICYHOLDERS.—Section 805 (relating to the determination of policy and other contract liability requirements) is amended by adding at the end thereof the following:

"(g) SPECIAL LIMITATION FOR GROUP PENSION CONTRACTS.—The amount determined under paragraphs (2) and (3) of subsection (a) for policy and other contract liability requirements for group pension contracts shall not exceed the amount actually credited to the policyholders whether such crediting is through premium rate computations, reserve increases, excess interest, experience rate credits, policyholder dividends or otherwise. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

26 USC 805 note.

(c) PROHIBITION AGAINST CHANGING THE QUALIFICATION STATUS OF LIFE INSURANCE COMPANIES.—For any taxable year ending before January 1, 1984, a taxpayer shall not be treated as other than a life insurance company (as defined in section 801(a) of such Code) because of the effect of amounts held under contracts which would be described in section 805(d) of the Internal Revenue Code of 1954, except for the fact that such contracts do not contain permanent annuity purchase rate guarantees.

SEC. 261. MODIFICATION OF MENGE FORMULA.

26 USC 805.

Subparagraph (B) of section 805(c)(1) (defining adjusted life insurance reserves rate) is amended to read as follows:

"(B) 0.9 raised to the power of n where n is the number (positive or negative) determined by subtracting—

"(i) 100 times the average rate of interest assumed by the taxpayer in calculating such reserves, from

"(ii) 100 times the adjusted reserves rate."

SEC. 262. CONSOLIDATED RETURNS TO BE COMPUTED ON A BOTTOM LINE BASIS.

26 USC 818.

Subsection (f) of section 818 (relating to computation on consolidated returns of policyholders' share of investment yield) is amended to read as follows:

"(f) SPECIAL RULES FOR CONSOLIDATED RETURN COMPUTATIONS.—For purposes of this part, in the case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the following rules shall apply:

"(1) POLICYHOLDERS' SHARE OF INVESTMENT YIELD.—The computation of the policyholders' share of investment yield under subparts B and C (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return.

"(2) LIFE INSURANCE COMPANY TAXABLE INCOME.—

"(A) IN GENERAL.—The amount of the consolidated life insurance company taxable income under paragraphs (1) and (2) of section 802(b) shall be determined by taking into account the life insurance company taxable income (including any case where deductions exceed income) of each life insurance company which is a member of the group (as computed separately under such paragraphs). 26 USC 802.

"(B) CERTAIN AMOUNTS COMPUTED SEPARATELY.—For purposes of subparagraph (A), the determination of a life insurance company's taxable investment income and gain or loss from operations (after applying the limitation provided by section 809(f)) shall be made without regard to the taxable investment income or gain or loss from operations of any other such company.

"(3) CONSOLIDATED NET CAPITAL GAIN.—If there is a consolidated net capital gain, then the partial tax referred to in section 802(a)(2)(A) shall be computed on—

"(A) the consolidated life insurance company taxable income, reduced (but not below the sum of the amounts determined under section 802(b)(3)) by

"(B) the amount of such consolidated net capital gain."

SEC. 263. EFFECTIVE DATES; SPECIAL RULES APPLICABLE TO TRANSACTIONS BEFORE EFFECTIVE DATE.

(a) EFFECTIVE DATES.— 26 USC 805 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this part shall apply to taxable years beginning after December 31, 1981, and before January 1, 1984.

(2) GROUP PENSION CONTRACTS.—The amendments made by section 260(b) shall apply to taxable years beginning after December 31, 1982, and before January 1, 1984.

(3) RESERVES ON CONTRACTS WHERE INTEREST GUARANTEED FOR EXTENDED PERIODS.—

(A) IN GENERAL.—The amendment made by section 260(a) shall apply to reserves computed for taxable years beginning after December 31, 1981, and before January 1, 1984, with respect to guarantees made after July 1, 1982, and before January 1, 1984.

(B) SPECIAL RULE RELATING TO RESERVES.—If, for any taxable year beginning before January 1, 1982—

(i) a taxpayer increased reserves pursuant to section 810(c)(4) of the Internal Revenue Code of 1954 to reflect interest guaranteed beyond the end of such taxable year, and

(ii) the Federal income tax liability of such taxpayer for all taxable years would be the same if such liability was computed with or without regard to such reserves,

then such reserves shall, as of the beginning of the first taxable year of the taxpayer beginning after December 31, 1981, be recomputed as if section 818(h) of such Code (as added by this Act) applied to such reserves. If this subparagraph applies to any taxpayer, subparagraph (A) shall be applied with respect to such taxpayer by striking out "after July 1, 1982, and". *Ante*, p. 539.

(b) SPECIAL RULES FOR CERTAIN TRANSACTIONS IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.—

(1) CERTAIN INTEREST AND PREMIUMS.—

(A) IN GENERAL.—In the case of any taxable year beginning before January 1, 1982, if a taxpayer, on his return of tax for such taxable year, treated—

(i) any amount described in subparagraph (B) as an amount which was not a dividend to policyholders (within the meaning of section 811 of the Internal Revenue Code of 1954), or

26 USC 811.

(ii) any amount described in subparagraph (C) as not described in section 809(c)(1),

Ante, p. 534.

then such amounts shall be so treated for purposes of the Internal Revenue Code of 1954.

(B) CERTAIN INTEREST.—An amount is described in this subparagraph if such amount is in the nature of interest accrued for the taxable year on an insurance or annuity contract pursuant to—

(i) an interest rate guaranteed or fixed before the period of payment of such amount begins, or

(ii) any other method (fixed before such period begins) the terms of which during the period are beyond the control and are independent of the experience of the company, whether or not the interest rate or other method was guaranteed or fixed for any specified period of time.

(C) AMOUNTS NOT TREATED AS PREMIUMS.—An amount is described in this subparagraph if such amount represents the difference between—

(i) the amount of premiums received or mortality charges made under rates fixed in advance of the premium or mortality charge due date, and

(ii) the maximum premium or mortality charge which could be charged under the terms of the insurance or annuity contract.

(D) NO INFERENCE.—The provisions of this paragraph shall constitute no inference with respect to the treatment of any item in taxable years beginning after December 31, 1981.

(2) CONSOLIDATED RETURNS.—The provisions of section 818(f) of such Code, as amended by section 262, shall apply to any taxable year beginning before January 1, 1982, if the taxpayer filed a consolidated return before July 1, 1982 for such taxable year under section 1501 of such Code which, on such date (determined without regard to any amended return filed after June 30, 1982), was consistent with the provisions of section 818(f) of such Code, as so amended. In the case of a taxable year beginning in 1981, the preceding sentence shall be applied by substituting "September 16" for "July 1" and "September 15" for "June 30".

(3) TAXABLE YEARS WHERE PERIOD OF LIMITATION HAS RUN.—This subsection shall not apply to any taxable year with respect to which the statute of limitations for filing a claim for credit or refund has expired under any provision of law or by operation of law.

PART III—EXCESS INTEREST; AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS; FLEXIBLE PREMIUM CONTRACTS; COMPUTATION OF RESERVES

SEC. 264. ALLOWANCE OF DEDUCTION FOR EXCESS INTEREST.

(a) IN GENERAL.—Subsection (e) of section 805 (defining interest paid) is amended by adding at the end thereof the following new paragraph: 26 USC 805.

"(5) QUALIFIED GUARANTEED INTEREST.—Qualified guaranteed interest (within the meaning of subsection (f))".

(b) QUALIFIED GUARANTEED INTEREST DEFINED.—Section 805 (relating to policy and other contract liability requirements) is amended by adding at the end thereof the following new subsection:

"(f) QUALIFIED GUARANTEED INTEREST AND QUALIFIED CONTRACTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified guaranteed interest' means any amount in the nature of interest for the taxable year on qualified contracts, but only if such amount is determined pursuant to—

"(A) a stated rate of interest which is guaranteed—

"(i) before the beginning of the period for which the interest accrues, and

"(ii) for a period of not less than 12 months (or for a period ending not earlier than the close of the taxable year in which the contract was issued), or

"(B) a rate or rates of interest which—

"(i) meet the requirements of clause (i) of subparagraph (A), and

"(ii) is determined under a formula or other method the terms of which—

"(I) during the period referred to in subparagraph (A)(ii) may not be changed by the taxpayer, and

"(II) are independent of the experience of the taxpayer.

"(2) QUALIFIED CONTRACT.—The term 'qualified contract' means any annuity contract (other than any contract described in subsection (d)) which—

"(A) involves (at the time the qualified interest is credited under the contract) life contingencies,

"(B) provides no right under State law for the policyholder to participate in the divisible surplus of the taxpayer, and

"(C) provides that the taxpayer may from time to time credit amounts in the nature of interest in excess of amounts computed on the basis of any rate or rates guaranteed in the contract at the time it was entered into.

"(3) SPECIAL RULE FOR PARTICIPATING CONTRACTS.—

"(A) IN GENERAL.—In the case of an annuity contract which is not a qualified contract solely because it fails to satisfy the requirements of subparagraph (B) of paragraph (2), such contract shall be treated as a qualified contract and the amount taken into account as qualified guaranteed interest with respect to such contract shall be equal to the sum of—

"(i) the amount of interest which would be assumed in calculating reserves with respect to such contract under section 810(c) if such interest were not taken into account under subsection (e), plus

"(ii) 92.5 percent of the excess of—

"(I) the amount of qualified guaranteed interest (determined without regard to this paragraph and as if such contract were a qualified contract), over

"(II) the amount determined under clause (i).

"(B) INTEREST NOT OTHERWISE TAKEN INTO ACCOUNT.—No deduction shall be allowed under any other provision of this part for the 7.5 percent of the excess described in subparagraph (A)(ii) which is not treated as qualified guaranteed interest."

(c) CONFORMING AMENDMENTS.—

26 USC 805. (1) Subparagraph (A) of section 805(c)(1) (defining adjusted life insurance reserves) is amended by inserting "or reserves on any qualified contract" after "pension plan reserves".

26 USC 809. (2) Paragraph (2) of section 809(a) (defining required interest) is amended—

(A) by inserting "the amount of qualified guaranteed interest (within the meaning of section 805(f)(1)) and" after "the sum of"; and

Ante, p. 543.

(B) by adding at the end thereof the following new sentence:

"For purposes of subparagraphs (A) and (B), reserves on qualified contracts (within the meaning of section 805(f)(2)) shall not be taken into account."

Ante, p. 543.

(3) Paragraph (1) of section 809(e) (relating to modification of interest deduction) is amended by inserting "qualified guaranteed interest (within the meaning of section 805(f)(1) or" after "allowed for".

26 USC 805 note. (d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) GUARANTEES FOR LESS THAN 12 MONTHS.—

(A) MONEYS HELD BEFORE AUGUST 14, 1982.—The requirements of subparagraph (A)(ii) or (B)(ii)(I) of section 805(f)(1) of the Internal Revenue Code of 1954 (as added by subsection (b)) shall not apply to any moneys held under any contract on August 13, 1982 (and any interest on such moneys after such date).

(B) CONTRACTS ENTERED INTO AFTER AUGUST 13, 1982, AND BEFORE JANUARY 1, 1983.—A contract entered into after August 13, 1982, and before January 1, 1983, shall be treated as meeting the requirements of subparagraph (A)(ii) or (B)(ii)(I) of such Code if it meets such requirements on the first contract anniversary date.

SEC. 265. TREATMENT OF AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS BEFORE ANNUITY STARTING DATE.

26 USC 72. (a) IN GENERAL.—Subsection (e) of section 72 (relating to amounts not received as annuities) is amended to read as follows:

"(e) AMOUNTS NOT RECEIVED AS ANNUITIES.—

"(1) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection shall apply to any amount which—

"(i) is received under an annuity, endowment, or life insurance contract, and

"(ii) is not received as an annuity,

if no provision of this subtitle (other than this subsection) applies with respect to such amount.

"(B) DIVIDENDS.—For purposes of this section, any amount received which is in the nature of a dividend or similar distribution shall be treated as an amount not received as an annuity.

"(2) GENERAL RULE.—Any amount to which this subsection applies—

"(A) if received on or after the annuity starting date, shall be included in gross income, or

"(B) if received before the annuity starting date—

"(i) shall be included in gross income to the extent allocable to income on the contract, and

"(ii) shall not be included in gross income to the extent allocable to the investment in the contract.

"(3) ALLOCATION OF AMOUNTS TO INCOME AND INVESTMENT.—For purposes of paragraph (2)(B)—

"(A) ALLOCATION TO INCOME.—Any amount to which this subsection applies shall be treated as allocable to income on the contract to the extent that such amount does not exceed the excess (if any) of—

"(i) the cash value of the contract (determined without regard to any surrender charge) immediately before the amount is received, over

"(ii) the investment in the contract at such time.

"(B) ALLOCATION TO INVESTMENT.—Any amount to which this subsection applies shall be treated as allocable to investment in the contract to the extent that such amount is not allocated to income under subparagraph (A).

"(4) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B)—

"(A) LOANS TREATED AS DISTRIBUTIONS.—If, during any taxable year, an individual—

"(i) receives (directly or indirectly) any amount as a loan under any contract to which this subsection applies, or

"(ii) assigns or pledges (or agrees to assign or pledge) any portion of the value of any such contract,

such amount or portion shall be treated as received under the contract as an amount not received as an annuity.

"(B) TREATMENT OF POLICYHOLDER DIVIDENDS.—Any amount described in paragraph (1)(B) shall not be included in gross income under paragraph (2)(B)(i) to the extent such amount is retained by the insurer as a premium or other consideration paid for the contract.

"(5) RETENTION OF EXISTING RULES IN CERTAIN CASES.—

"(A) IN GENERAL.—In any case to which this paragraph applies—

"(i) paragraphs (2)(B) and (4)(A) shall not apply, and

"(ii) if paragraph (2)(A) does not apply,

the amount shall be included in gross income, but only to the extent it exceeds the investment in the contract.

"(B) EXISTING CONTRACTS.—This paragraph shall apply to contracts entered into before August 14, 1982. Any amount

allocable to investment in the contract after August 13, 1982, shall be treated as from a contract entered into after such date.

"(C) CERTAIN LIFE INSURANCE AND ENDOWMENT CONTRACTS.—Except to the extent prescribed by the Secretary by regulations, this paragraph shall apply to any amount not received as an annuity which is received under a life insurance or endowment contract.

"(D) CONTRACTS UNDER QUALIFIED PLANS.—This paragraph shall apply to any amount received—

"(i) from a trust described in section 401(a) which is exempt from tax under section 501(a),

"(ii) from a contract—

"(I) purchased by a trust described in clause (i),

"(II) purchased as part of a plan described in section 403(a),

"(III) described in section 403(b), or

"(IV) provided for employees of a life insurance company under a plan described in section 805(d)(3), or

"(iii) from an individual retirement account or an individual retirement annuity.

"(E) FULL REFUNDS, SURRENDERS, REDEMPTIONS, AND MATURITIES.—This paragraph shall apply to—

"(i) any amount received, whether in a single sum or otherwise, under a contract in full discharge of the obligation under the contract which is in the nature of a refund of the consideration paid for the contract, and

"(ii) any amount received under a contract on its complete surrender, redemption, or maturity.

In the case of any amount to which the preceding sentence applies, the rule of paragraph (2)(A) shall not apply.

"(6) INVESTMENT IN THE CONTRACT.—For purposes of this subsection, the investment in the contract as of any date is—

"(A) the aggregate amount of premiums or other consideration paid for the contract before such date, minus

"(B) the aggregate amount received under the contract before such date, to the extent that such amount was excludable from gross income under this subtitle or prior income tax laws."

(b) 5-PERCENT PENALTY FOR CERTAIN PREMATURE DISTRIBUTIONS.—

95 Stat. 278. (1) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (q) as subsection (r) and by adding after subsection (p) the following new subsection:

"(q) 5-PERCENT PENALTY FOR PREMATURE DISTRIBUTIONS FROM ANNUITY CONTRACTS.—

"(1) IMPOSITION OF PENALTY.—

"(A) IN GENERAL.—If any taxpayer receives any amount under an annuity contract, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 5 percent of the portion of such amount includible in gross income which is properly allocable to any investment in the annuity contract made during the 10-year period ending on the date such amount was received by the taxpayer.

"(B) ALLOCATION ON FIRST-IN, FIRST-OUT BASIS.—For purposes of subparagraph (A), the amount includible in gross income shall be allocated to the earliest investment in the contract with respect to which amounts have not been previously fully allocated under this paragraph.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—This subsection shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) made to a beneficiary (or to the estate of an annuitant) on or after the death of an annuitant,

"(C) attributable to the taxpayer's becoming disabled within the meaning of subsection (m)(7),

"(D) which is one of a series of substantially equal periodic payments made for the life of a taxpayer or over a period extending for at least 60 months after the annuity starting date,

"(E) from a plan, contract, account, trust, or annuity described in subsection (e)(5)(D), or

"(F) allocable to investment in the contract before August 14, 1982."

(2) CONFORMING AMENDMENTS.—

(A) Each of the following provisions are amended by inserting "section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts)," after "owner-employees)": *Ante*, p. 546.

(i) Section 46(a)(4), 26 USC 46.

(ii) Section 50A(a)(3), 26 USC 50A.

(iii) Section 53(a), 26 USC 53.

(iv) Section 901(a). 26 USC 901.

(B) Subparagraph (A) of section 1302(a)(2) is amended by inserting "or (q)(1)" after "section 72(m)(5)". 26 USC 1302.

(C) Paragraph (1) of section 1304(e) is amended— 26 USC 1304.

(i) by inserting "or section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts)" after "owner-employees)", and

(ii) by inserting "or (q)(1)" after "Section 72(m)(5)" in the heading thereof.

(c) EFFECTIVE DATES.— 26 USC 72 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on August 13, 1982.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to distributions after December 31, 1982.

SEC. 266. FLEXIBLE PREMIUM CONTRACTS.

(a) IN GENERAL.—Section 101 (relating to exclusion from gross income for certain death benefits) is amended by adding at the end thereof the following new subsection: 26 USC 101.

"(f) PROCEEDS OF FLEXIBLE PREMIUM CONTRACTS PAYABLE BY REASON OF DEATH.—

"(1) IN GENERAL.—Any amount paid by reason of the death of the insured under a flexible premium life insurance contract shall be excluded from gross income only if—

"(A) under such contract—

"(i) the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time, and

"(ii) any amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) is not at any time less than the applicable percentage of the cash value of such contract at such time, or

"(B) by the terms of such contract, the cash value of such contract may not at any time exceed the net single premium with respect to the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) at such time.

"(2) GUIDELINE PREMIUM LIMITATION.—For purposes of this subsection—

"(A) GUIDELINE PREMIUM LIMITATION.—The term 'guideline premium limitation' means, as of any date, the greater of—

"(i) the guideline single premium, or

"(ii) the sum of the guideline level premiums to such date.

"(B) GUIDELINE SINGLE PREMIUM.—The term 'guideline single premium' means the premium at issue with respect to future benefits under the contract (without regard to any qualified additional benefit), and with respect to any charges for qualified additional benefits, at the time of a determination under subparagraph (A) or (E) and which is based on—

"(i) the mortality and other charges guaranteed under the contract, and

"(ii) interest at the greater of an annual effective rate of 6 percent or the minimum rate or rates guaranteed upon issue of the contract.

"(C) GUIDELINE LEVEL PREMIUM.—The term 'guideline level premium' means the level annual amount, payable over the longest period permitted under the contract (but ending not less than 20 years from date of issue or not later than age 95, if earlier), computed on the same basis as the guideline single premium, except that subparagraph (B)(ii) shall be applied by substituting '4 percent' for '6 percent'.

"(D) COMPUTATIONAL RULES.—In computing the guideline single premium or guideline level premium under subparagraph (B) or (C)—

"(i) the excess of the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) over the cash value of the contract shall be deemed to be not greater than such excess at the time the contract was issued,

"(ii) the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95, and

"(iii) the amount of any endowment benefit (or sum of endowment benefits) shall be deemed not to exceed the least amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) at any time under the contract.

"(E) ADJUSTMENTS.—The guideline single premium and guideline level premium shall be adjusted in the event of a change in the future benefits or any qualified additional benefit under the contract which was not reflected in any

guideline single premiums or guideline level premium previously determined.

"(3) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FLEXIBLE PREMIUM LIFE INSURANCE CONTRACT.—The terms 'flexible premium life insurance contract' and 'contract' mean a life insurance contract (including any qualified additional benefits) which provides for the payment of one or more premiums which are not fixed by the insurer as to both timing and amount. Such terms do not include that portion of any contract which is treated under State law as providing any annuity benefits other than as a settlement option.

"(B) PREMIUMS PAID.—The term 'premiums paid' means the premiums paid under the contract less any amounts (other than amounts includible in gross income) to which section 72(e) applies. If, in order to comply with the requirements of paragraph (1)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year—

"(i) the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year, and

"(ii) notwithstanding the provisions of section 72(e), the amount of any interest so returned shall be includible in the gross income of the recipient.

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(i) 140 percent in the case of an insured with an attained age at the beginning of the contract year of 40 or less, and

"(ii) in the case of an insured with an attained age of more than 40 as of the beginning of the contract year, 140 percent reduced (but not below 105 percent) by one percent for each year in excess of 40.

"(D) CASH VALUE.—The cash value of any contract shall be determined without regard to any deduction for any surrender charge or policy loan.

"(E) QUALIFIED ADDITIONAL BENEFITS.—The term 'qualified additional benefits' means any—

"(i) guaranteed insurability,

"(ii) accidental death benefit,

"(iii) family term coverage, or

"(iv) waiver of premium.

"(F) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of paragraph (1)(A)(i) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract without cash value on or before the end of the contract year.

"(G) NET SINGLE PREMIUM.—In computing the net single premium under paragraph (1)(B)—

"(i) the mortality basis shall be that guaranteed under the contract (determined by reference to the

most recent mortality table allowed under all State laws on the date of issuance),

"(ii) interest shall be based on the greater of—

"(I) an annual effective rate of 4 percent (3 percent for contracts issued before July 1, 1983), or

"(II) the minimum rate or rates guaranteed upon issue of the contract, and

"(iii) the computational rules of paragraph (2)(D) shall apply, except that the maturity date referred to in clause (ii) thereof shall not be earlier than age 95.

"(H) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(i) the requirements described in paragraph (1) for any contract year was not satisfied due to reasonable error, and

"(ii) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements.

"(I) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

26 USC 101. (b) CONFORMING AMENDMENT.—Paragraph (1) of section 101(a) (relating to proceeds of life insurance contracts payable by reason of death) is amended by striking out "and in subsection (d)" and inserting in lieu thereof ", subsection (d), and subsection (f)".

26 USC 101 note. (c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts entered into before January 1, 1984.

(2) SPECIAL RULE FOR CONTRACTS ENTERED INTO BEFORE JANUARY 1, 1983.—Any contract entered into before January 1, 1983, which meets the requirements of section 101(f) of the Internal Revenue Code of 1954 on the date which is 1 year after the date of the enactment of this Act shall be treated as meeting the requirements of such section for any period before the date on which such contract meets such requirements. Any death benefits paid under a flexible premium life insurance contract (within the meaning of section 101(f)(3)(A) of such Code) before the date which is 1 year after such date of enactment shall be excluded from gross income.

Ante, p. 547.

(3) SPECIAL RULE FOR CERTAIN CONTRACTS.—Any contract entered into before January 1, 1983, shall be treated as meeting the requirements of subparagraph (A) of section 101(f)(1) of such Code if such contract would meet such requirements if section 103(f)(2)(C) of such Code were applied by substituting "3 percent" for "4 percent".

SEC. 267. REDUCTION IN APPROXIMATE REVALUATION METHOD OF COMPUTING RESERVES.

(a) REDUCTION FROM $21 PER $1,000 TO $19 PER $1,000 IN DETERMINING APPROXIMATE REVALUATION OF CERTAIN RESERVES COMPUTED ON PRELIMINARY TERM BASIS.—

26 USC 818. (1) IN GENERAL.—Subparagraph (A) of section 818(c)(2) (relating to approximate revaluation of reserves computed on preliminary term basis) is amended—

(A) by striking out "$21" and inserting in lieu thereof "$19", and

(B) by striking out "2.1 percent" and inserting in lieu thereof "1.9 percent".

(2) TAXPAYER ALLOWED TO ELECT OUT OF APPROXIMATE REVALUATION.—The last sentence of section 818(c) (relating to life insurance reserves computed on preliminary term basis) is amended— 26 USC 818.

(A) by inserting "or in effect for a taxable year beginning in 1981" after "1958" the first place it appears, and

(B) by inserting "or 1981, whichever is applicable" after "1958" the second place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981, but only with respect to reserves established under contracts entered into after March 31, 1982. 26 USC 818 note.

PART IV—UNDERPAYMENTS OF ESTIMATED TAX FOR 1982

SEC. 268. UNDERPAYMENTS OF ESTIMATED TAX FOR 1982. 26 USC 802 note.

No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before December 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by section 802(a), to the extent that such underpayment was created or increased by any provisions of this subtitle.

Subtitle E—Employment Taxes

PART I—IN GENERAL

SEC. 269. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS.

(a) GENERAL RULE.—Chapter 25 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 3508. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS. 26 USC 3508.

"(a) GENERAL RULE.—For purposes of this title, in the case of services performed as a qualified real estate agent or as a direct seller—

"(1) the individual performing such services shall not be treated as an employee, and

"(2) the person for whom such services are performed shall not be treated as an employer.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED REAL ESTATE AGENT.—The term 'qualified real estate agent' means any individual who is a sales person if—

"(A) such individual is a licensed real estate agent,

"(B) substantially all of the remuneration (whether or not paid in cash) for the services performed by such individual as a real estate agent is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

"(C) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be

treated as an employee with respect to such services for Federal tax purposes.

"(2) DIRECT SELLER.—The term 'direct seller' means any person if—

"(A) such person—

"(i) is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, or

"(ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment,

"(B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

"(C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for Federal tax purposes.

"(3) COORDINATION WITH RETIREMENT PLANS FOR SELF-EMPLOYED.—This section shall not apply for purposes of subtitle A to the extent that the individual is treated as an employee under section 401(c)(1) (relating to self-employed individuals)."

42 USC 410.

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Treatment of Real Estate Agents and Direct Sellers

Ante, p. 551.

"(p) Notwithstanding any other provision of this title, the rules of section 3508 of the Internal Revenue Code of 1954 shall apply for purposes of this title."

(c) INDEFINITE EXTENSION OF PROVISIONS RELATING TO EMPLOYMENT STATUS FOR EMPLOYMENT TAXES.—

26 USC 3401 note.

(1) TERMINATION OF CERTAIN EMPLOYMENT TAX LIABILITY.—

26 USC 3401 note.

(A) Subparagraph (A) of section 530(a)(1) of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before July 1, 1982) is amended by striking out "ending before July 1, 1982".

(B) Paragraph (3) of section 530(a) of such Act is amended by striking out "and before July 1, 1982,".

(C) The subsection heading of subsection (a) of section 530 of such Act is amended by striking out "FOR PERIODS BEFORE JULY 1, 1982".

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of such Act is amended—

(A) by striking out "July 1, 1982 (or, if earlier,", and

(B) by striking out "taxes)" and inserting in lieu thereof "taxes".

(3) CERTAIN REGULATIONS, ETC., PERMITTED.—Nothing in section 530 of the Revenue Act of 1978 shall be construed to prohibit the implementation of the amendments made by this section. 26 USC 3508 note. 26 USC 3401 note.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item:

"Sec. 3508. Treatment of real estate agents and direct sellers."

(e) EFFECTIVE DATES.— 26 USC 3508 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to services performed after December 31, 1982.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on July 1, 1982.

SEC. 270. SIMPLIFIED PROCEDURE FOR DETERMINING AMOUNT OF EMPLOYMENT TAXES.

(a) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes), as amended by section 271, is amended by adding at the end thereof the following new section:

"SEC. 3509. DETERMINATION OF EMPLOYER'S LIABILITY FOR CERTAIN EMPLOYMENT TAXES. 26 USC 3509.

"(a) IN GENERAL.—If any employer fails to deduct and withhold any tax under chapter 24 or subchapter A of chapter 21 with respect to any employee by reason of treating such employee as not being an employee for purposes of such chapter or subchapter, the amount of the employer's liability for— 26 USC 3401 *et seq*, 3101.

"(1) WITHHOLDING TAXES.—Tax under chapter 24 for such year with respect to such employee shall be determined as if the amount required to be deducted and withheld were equal to 1.5 percent of the wages (as defined in section 3401) paid to such employee.

"(2) EMPLOYEE SOCIAL SECURITY TAX.—Taxes under subchapter A of chapter 21 with respect to such employee shall be determined as if the taxes imposed under such subchapter were 20 percent of the amount imposed under such subchapter without regard to this subparagraph.

"(b) EMPLOYER'S LIABILITY INCREASED WHERE EMPLOYER DISREGARDS REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—In the case of an employer who fails to meet the applicable requirements of section 6041(a), 6041A, or 6051 with respect to any employee, unless such failure is due to reasonable cause and not willful neglect, subsection (a) shall be applied with respect to such employee— *Post*, p. 601.

"(A) by substituting '3 percent' for '1.5 percent' in paragraph (1); and

"(B) by substituting '40 percent' for '20 percent' in paragraph (2).

"(2) APPLICABLE REQUIREMENTS.—For purposes of paragraph (1), the term 'applicable requirements' means the requirements described in paragraph (1) which would be applicable consistent with the employer's treatment of the employee as not being an employee for purposes of chapter 24 or subchapter A of chapter 21.

"(c) SECTION NOT TO APPLY IN CASES OF INTENTIONAL DISREGARD.—This section shall not apply to the determination of the

26 USC 3401 *et seq*, 3101.

employer's liability for tax under chapter 24 or subchapter A of chapter 21 if such liability is due to the employer's intentional disregard of the requirement to deduct and withhold such tax.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DETERMINATION OF LIABILITY.—If the amount of any liability for tax is determined under this section—

"(A) the employee's liability for tax shall not be affected by the assessment or collection of the tax so determined,

"(B) the employer shall not be entitled to recover from the employee any tax so determined, and

"(C) sections 3402(d) and section 6521 shall not apply.

"(2) SECTION NOT TO APPLY WHERE EMPLOYER DEDUCTS WAGE BUT NOT SOCIAL SECURITY TAXES.—This section shall not apply to any employer with respect to any wages if—

"(A) the employer deducted and withheld any amount of the tax imposed by chapter 24 on such wages, but

"(B) failed to deduct and withhold the amount of the tax imposed by subchapter A of chapter 21 with respect to such wages.

"(3) SECTION NOT TO APPLY TO CERTAIN STATUTORY EMPLOYEES.—This section shall not apply to any tax under subchapter A of chapter 21 with respect to an individual described in subsection (d)(3) of section 3121 (without regard to whether such individual is described in paragraph (1) or (2) of such subsection).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3509. Determination of employer's liability for certain employment taxes."

26 USC 3509 note.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply to any assessment made before January 1, 1983.

PART II—FEDERAL UNEMPLOYMENT TAX

Subpart A—Increase in Federal Unemployment Tax

SEC. 271. INCREASE IN FEDERAL UNEMPLOYMENT TAX WAGE BASE AND RATE.

26 USC 3306.

(a) INCREASE IN WAGE BASE.—Paragraph (1) of section 3306(b) (defining wages) is amended by striking out "$6,000" each place it appears and inserting in lieu thereof "$7,000".

(b) INCREASE IN RATE.—

26 USC 3301.

(1) IN GENERAL.—Paragraph (1) of section 3301 (relating to rate of unemployment tax) is amended by striking out "3.4 percent" and inserting in lieu thereof "3.5 percent".

(2) TECHNICAL AMENDMENTS.—

42 USC 1101.

(A) Subparagraph (C) of section 901(c)(3) of the Social Security Act is amended to read as follows:

"(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal

26 USC 3301.

Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.8 percent in the case of any calendar year for which the rate of tax under such section is 3.5 percent."

(B) Paragraph (1) of section 905(b) of such Act is amended by amending the last sentence to read as follows: "In the case of any month after March 1983 and before April 1 of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting '40 percent' for 'one-tenth'." 42 USC 1105. 26 USC 3301.

(C) Subsection (b) of section 6157 is amended by striking out "0.7 percent" and inserting in lieu thereof "0.8 percent". 26 USC 6157.

(c) INCREASE IN RATE FOR 1985 AND THEREAFTER.—

(1) IN GENERAL.—Section 3301 (as amended by subsection (b)) is amended—

(A) by striking out "3.5 percent" and inserting in lieu thereof "6.2 percent", and

(B) by striking out "3.2 percent" and inserting in lieu thereof "6.0 percent".

(2) INCREASE IN AMOUNT OF STATE CREDIT.—

(A) Subsection (b) of section 3302 (relating to additional credit) is amended by striking out "2.7%" and inserting in lieu thereof "5.4%". 26 USC 3302.

(B) Paragraph (1) of section 3302(d) (relating to rate of tax deemed to be 3 percent) is amended by striking out "3 percent" each place it appears and inserting in lieu thereof "6 percent".

(3) TECHNICAL AMENDMENTS.—

(A) Paragraph (2) of section 3302(c) is amended by striking out "10 percent" each place it appears in subparagraph (A) and inserting in lieu thereof "5 percent".

(B) Paragraph (3) of section 3302(c) is amended by striking out "15 percent" and inserting in lieu thereof "7½ percent".

(C) Subsection (b) of section 6157 is amended by striking out "0.5 percent" each place it appears and inserting in lieu thereof "0.6 percent". 26 USC 6157.

(D) Subparagraph (C) of section 901(c)(3) of the Social Security Act (as amended by subsection (b)) is amended— *Ante*, p. 554.

(i) by striking out "0.5 percent" and inserting in lieu thereof "0.6 percent";

(ii) by striking out "3.2 percent" and inserting in lieu thereof "6.0 percent"; and

(iii) by striking out "3.5 percent" and inserting in lieu thereof "6.2 percent".

(b) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to remuneration paid after December 31, 1982. 26 USC 3301 note.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984. 26 USC 3301 note.

(3) TRANSITIONAL RULE FOR CERTAIN EMPLOYEES.— 26 USC 3302 note.

(A) IN GENERAL.—Notwithstanding section 3303 of the Internal Revenue Code of 1954, in the case of taxable years beginning after December 31, 1984, and before January 1, 1989, a taxpayer shall be allowed the additional credit under section 3302(b) of such Code with respect to any employee covered by a qualified specific industry provision *Supra.*

if the requirements of subparagraph (B) are met with respect to such employee.

(B) REQUIREMENTS.—The requirements of this subparagraph are met for any taxable year with respect to any employee covered by a specific industry provision if the amount of contributions required to be paid for the taxable year to the unemployment fund of the State with respect to such employee are not less than the product of the required rate multiplied by the wages paid by the employer during the taxable year.

(C) REQUIRED RATE.—For purposes of subparagraph (B), the required rate for any taxable year is the sum of—

(i) the rate at which contributions were required to be made under the specific industry provision as in effect on August 10, 1982, and

(ii) the applicable percentage of the excess of 5.4 percent over the rate described in clause (i).

(D) APPLICABLE PERCENTAGE.—For purposes of subparagraph (C), the term "applicable percentage" means—

(i) 20 percent in the case of taxable year 1985,

(ii) 40 percent in the case of taxable year 1986,

(iii) 60 percent in the case of taxable year 1987, and

(iv) 80 percent in the case of taxable year 1988.

(E) QUALIFIED SPECIFIC INDUSTRY PROVISION.—For purposes of this paragraph, the term, "qualified specific industry provision" means a provision contained in a State unemployment compensation law (as in effect on August 10, 1982)—

(i) which applies to employees in a specific industry or to an otherwise defined type of employees, and

(ii) under which employers may elect to make contributions at a specified rate (without experience rating) which exceeds 2.7 percent.

Subpart B—Other Financing Provisions

SEC. 272. CREDIT REDUCTION NOT TO APPLY WHEN STATE MAKES CERTAIN REPAYMENTS.

95 Stat. 876.

(a) GENERAL RULE.—Section 3302 (relating to credits against unemployment tax) is amended by adding at the end thereof the following new subsection:

"(g) CREDIT REDUCTION NOT TO APPLY WHEN STATE MAKES CERTAIN REPAYMENTS.—

"(1) IN GENERAL.—In the case of any State which meets requirements of paragraph (2) with respect to any taxable year, subsection (c)(2) shall not apply to such taxable year; except that such taxable year (and January 1 of such taxable year) shall (except as provided in subsection (f)(3)) be taken into account for purposes of applying subsection (c)(2) to succeeding taxable years.

"(2) REQUIREMENTS.—The requirements of this paragraph are met by any State with respect to any taxable year if the Secretary of Labor determines that—

"(A) the repayments during the 1-year period ending on November 9 of such taxable year made by such State of

advances under title XII of the Social Security Act are not less than the sum of— 42 USC 1321.

"(i) the potential additional taxes for such taxable year, and

(ii) any advances made to such State during such 1-year period under such title XII,

"(B) there will be sufficient amounts in the State unemployment fund to pay all compensation during the 3-month period beginning on November 1 of such taxable year without receiving any advance under title XII of the Social Security Act, and

"(C) there is a net increase in the solvency of the State unemployment compensation system for the taxable year attributable to changes made in the State law after the date on which the first advance taken into account in determining the amount of the potential additional taxes was made (or, if later, after the date of the enactment of this subsection) and such net increase equals or exceeds the potential additional taxes for such taxable year.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) POTENTIAL ADDITIONAL TAXES.—The term 'potential additional taxes' means, with respect to any State for any taxable year, the aggregate amount of the additional tax which would be payable under this chapter for such taxable year by all taxpayers subject to the unemployment compensation law of such State for such taxable year if paragraph (2) of subsection (c) had applied to such taxable year and any preceding taxable year without regard to this subsection but with regard to subsection (f).

"(B) TREATMENT OF CERTAIN REDUCTIONS.—Any reduction in the State's balance under section 901(d)(1) of the Social Security Act shall not be treated as a repayment made by such State. 42 USC 1101.

"(4) REPORTS.—The Secretary of Labor may require a State to furnish such information at such time and in such manner as may be necessary for purposes of paragraph (2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982. 26 USC 3302 note.

SEC. 273. LIMITATION ON FIFTH YEAR CREDIT REDUCTION.

(a) GENERAL RULE.—Paragraph (2) of section 3302(c) (relating to limit on total credits) is amended by adding at the end thereof the following new sentence: "Subparagraph (C) shall not apply with respect to any taxable year to which it would otherwise apply (but subparagraph (B) shall apply to such taxable year) if the Secretary of Labor determines (on or before November 10 of such taxable year) that the State meets the requirements of subsection (f)(2)(B) for such taxable year." 26 USC 3302.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982. 26 USC 3302 note.

SEC. 274. DEFERRAL OF INTEREST IN CASE OF CERTAIN STATES WITH HIGH UNEMPLOYMENT RATES.

(a) GENERAL RULE.—Paragraph (3) of section 1202(b) of the Social Security Act is amended by adding at the end thereof the following new subparagraph: 95 Stat. 879. 42 USC 1322.

"(C)(i) In the case of any State which meets the requirements of clause (ii) for any calendar year, any interest otherwise required to be paid under this subsection during such calendar year shall be paid as follows—

"(I) 25 percent of the amount otherwise required to be paid on or before any day during such calendar year shall be paid on or before such day; and

"(II) 25 percent of the amount otherwise required to be paid on or before such day shall be paid on or before the corresponding day in each of the 3 succeeding calendar years.

Any interest the time for payment of which is deferred under this subparagraph shall bear interest in the same manner as if it were an advance made on the day on which it would have been required to be paid but for this subparagraph.

"(ii) A State meets the requirements of this clause for any calendar year if the rate of insured unemployment (as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970) under the State law of the period consisting of the first 6 months of the preceding calendar year equaled or exceeded 7.5 percent."

26 USC 3304 note.

42 USC 1322 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest required to be paid after December 31, 1982.

SEC. 275. REQUIRED REPAYMENTS FROM EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

42 USC 1105.

Subsection (d) of section 905 of the Social Security Act is amended by inserting after the second sentence the following new sentence: "Repayments under the preceding sentence shall be made whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that the amount then in the account exceeds the amount necessary to meet the anticipated payments from the account during the next 3 months."

SEC. 276. TREATMENT OF CERTAIN SERVICES PERFORMED BY STUDENTS.

(a) STUDENT INTERNS.—

26 USC 3306.

(1) IN GENERAL.—Subparagraph (C) of section 3306(c)(10) (defining employment) is amended by striking out "under the age of 22".

26 USC 3306 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services performed after the date of the enactment of this Act.

(b) FULL TIME STUDENTS EMPLOYED BY SUMMER CAMPS.—

26 USC 3306.

(1) SERVICE BY FULL TIME STUDENTS.—Subsection (c) of section 3306 (defining employment) is amended—

(A) by striking out "or" at the end of paragraph (18),

(B) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and

(C) by adding at the end thereof the following new paragraph:

"(20) service performed by a full time student (as defined in subsection (q)) in the employ of an organized camp—

"(A) if such camp—

"(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

"(ii) had average gross receipts for any 6 months in the preceding calendar year which were not more than

33⅓ percent of its average gross receipts for the other 6 months in the preceding calendar year; and

"(B) if such full time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year."

(2) FULL TIME STUDENT DEFINED.—Section 3306 is amended by adding at the end thereof the following new subsection: 26 USC 3306.

"(q) FULL TIME STUDENT.—For purposes of subsection (c)(20), an individual shall be treated as a full time student for any period—

"(1) during which the individual is enrolled as a full time student at an educational institution, or

"(2) which is between academic years or terms if—

"(A) the individual was enrolled as a full time student at an educational institution for the immediately preceding academic year or term, and

"(B) there is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in subparagraph (A)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid after December 31, 1982, and before January 1, 1984. 26 USC 3306 note.

SEC. 277. TREATMENT OF CERTAIN ALIEN FARM WORKERS.

Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1984". 26 USC 3306.

PART III—MEDICARE COVERAGE

SEC. 278. MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, FEDERAL EMPLOYMENT.

(a) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL EMPLOYMENT.—

(1) IN GENERAL.—Section 3121 (relating to definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection: 26 USC 3121.

"(u) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL EMPLOYMENT.—

"(1) IN GENERAL.—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

"(A) paragraph (6) of subsection (b) shall be applied without regard to subparagraphs (A), (B), and (C)(i), (ii), and (vi) thereof, and

"(B) paragraph (5) of subsection (b) (and the provisions of law referred to therein) shall not apply.

"(2) MEDICARE QUALIFIED FEDERAL EMPLOYMENT.—For purposes of this chapter, the term 'medicare qualified Federal employment' means service which—

"(A) is employment (as defined in subsection (b)) with the application of paragraph (1), but

"(B) would not be employment (as so defined) without the application of paragraph (1)."

(2) CONFORMING AMENDMENT TO SELF-EMPLOYMENT TAX.—Section 1402(b) (relating to self-employment income) is amended in the second sentence by striking out "and" before "(B)" and by inserting before the period the following: ", and (C) includes, but 26 USC 1402.

only with respect to the tax imposed by section 1401(b), remuneration paid for medicare qualified Federal employment (as defined in section 3121(u)(2)) which is subject to the taxes imposed by sections 3101(b) and 3111(b)".

Ante, p. 559.

(3) CONFORMING AMENDMENT TO FEDERAL SERVICE.—Section 3122 (relating to federal service) is amended in the first sentence by inserting "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))," after "wholly owned by the United States,".

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) DEFINITION OF MEDICARE QUALIFIED FEDERAL EMPLOYMENT.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 410.

"Medicare Qualified Federal Employment

42 USC 426, 426-1.

"(p) For purposes of sections 226 and 226A, the term 'medicare qualified Federal employment' means any service which would constitute 'employment' as defined in subsection (a) of this section but for the application of the provisions of—

"(1) subparagraph (A), (B), or (C)(i), (ii), or (vi) of subsection (a)(6), or

"(2) subsection (a)(5).".

(2) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(A) FOR INDIVIDUALS AGE 65 OR OLDER.—Section 226(a)(2) of the the Social Security Act is amended—

42 USC 426.

(i) by inserting "(A)" after "(2)";

(ii) by striking out "or is a qualified railroad retirement beneficiary," at the end of subparagraph (A); and

(iii) by inserting after subparagraph (A) the following new subparagraphs:

"(B) is a qualified railroad retirement beneficiary, or

"(C)(i) would meet the requirements of subparagraph (A) upon filing application for the monthly insurance benefits involved if medicare qualified Federal employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and (ii) files an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII,".

Supra.

42 USC 1395c.

(B) ENTITLEMENT FOR DISABLED INDIVIDUALS.—

(i) IN GENERAL.—Section 226(b)(2) of the Social Security Act is amended by striking out "(B)" and all that follows through "1974," and adding at the end the following:

"(B) is, and has been for not less than 24 months, a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974, or

45 USC 231f.

"(C)(i) has filed an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII pursuant to this subparagraph, and

"(ii) would meet the requirements of subparagraph (A) (as determined under the disability criteria, including reviews, applied under this title), including the requirement that he has been entitled to the specified benefits for 24 months, if—

"(I) medicare qualified Federal employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and

"(II) the filing of the application under clause (i) of this subparagraph were deemed to be the filing of an application for the disability-related benefits referred to in clause (i), (ii), or (iii) of subparagraph (A),".

(ii) CLARIFICATION OF PERIOD OF ENTITLEMENT.—Section 226(b) of such Act is further amended by adding after the first sentence the following new sentence: "In applying the previous sentence in the case of an individual described in paragraph (2)(C), the 'twenty-fifth month of his entitlement' refers to the first month after the twenty-fourth month of entitlement to specified benefits referred to in paragraph (2)(C) and 'notice of termination of such entitlement' refers to a notice that the individual would no longer be determined to be entitled to such specified benefits under the conditions described in that paragraph.". 42 USC 426.

(C) ENTITLEMENT FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Paragraph (1) of section 226A(a) of the Social Security Act is amended to read as follows: 42 USC 426-1.

"(1)(A) is fully or currently insured (as such terms are defined in section 214), or would be fully or currently insured if (i) his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included within the meaning of the term 'employment' for purposes of this title, and (ii) his medicare qualified Federal employment (as defined in section 210(p)) were included within the meaning of the term 'employment' for purposes of this title; 45 USC 231t. *Ante*, p. 560.

"(B)(i) is entitled to monthly insurance benefits under this title, (ii) is entitled to an annuity under the Railroad Retirement Act of 1974, or (iii) would be entitled to a monthly insurance benefit under this title if medicare qualified Federal employment (as defined in 210(p)) after December 31, 1982, were included within the meaning of the term 'employment' for purposes of this title; or

"(C) is the spouse or dependent child (as defined in regulations) of an individual described in subparagraph (A) or (B);".

(3) CONFORMING AMENDMENT.—Section 1811 of the Social Security Act is amended— 42 USC 1395c.

(A) by inserting "(or would be eligible for such benefits if certain Federal employment were covered employment under such title)" after "title II of this Act" in clause (1), and

(B) by inserting "(or would have been so entitled to such benefits if certain Federal employment were covered employment under such title)" after "title II of this Act" in clause (2).

(4) NOTICE TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON FEDERAL EMPLOYMENT.—Section 226 of such Act is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 42 USC 426.

"(g) The Secretary and Director of the Office of Personnel Management shall jointly prescribe and carry out procedures designed to assure that all individuals who perform medicare qualified Federal employment are fully informed with respect to (1) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (2) the requirements for 42 USC 1395c.

and conditions of such eligibility, and (3) the necessity of timely application as a condition of entitlement under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity under chapter 83 of title 5, United States Code, or under another similar Federal retirement program, and whose eligibility for such an annuity is or would be based on a disability.".

5 USC 8301 *et seq.*

(c) EFFECTIVE DATES.—

26 USC 3121 note.

(1) HOSPITAL INSURANCE TAXES.—The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1982.

42 USC 426 note.

(2) MEDICARE COVERAGE.—

(A) IN GENERAL.—The amendments made by subsection (b) are effective on and after January 1, 1983, and the amendments made by paragraph (3) of that subsection apply to remuneration (for medicare qualified Federal employment) paid after December 31, 1982.

(B) TREATMENT OF CURRENT DISABILITIES.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b) or the provisions of subsection (d), no individual may be considered to be under a disability for any period before January 1, 1983.

42 USC 1395c.

42 USC 426 note.

(d) TRANSITIONAL PROVISIONS.—

(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual—

42 USC 426, 426-1, 1395c.

(A) who performs service both during January 1983, and before January 1, 1983, which constitutes medicare qualified Federal employment (as defined in section 210(p) of such Act) and

(B) who would be entitled, under section 226(a)(2)(C), 226(b)(2)(C), 226A(a)(1)(A)(ii), or 226A(a)(1)(B)(iii) of such Act, to hospital insurance benefits under part A of title XVIII of such Act but for the failure to include medicare qualified Federal employment (as so defined) within the meaning of the term "employment" for purposes of title II of such Act for remuneration paid before January 1, 1983,

Ante, pp. 560, 561.

42 USC 401.

the individual's medicare qualified Federal employment (as so defined) performed before January 1, 1983, for which remuneration was paid before such date, shall be considered to be "employment" (as so defined), but only for the purpose of providing such entitlement.

(2) ELIGIBILITY OF OTHER PERSONS.—Any individual who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act by reason of the application of paragraph (1) of this subsection, shall be deemed to be entitled to an old-age benefit under section 202 of such Act, or a disability benefit under section 223 of such Act, for purposes of determining eligibility for such hospital insurance benefits for any other person. In applying this paragraph, any such other person who would be entitled to a monthly benefit under section 202 of such Act if such individual (to whom paragraph (1) applies) were entitled to such old-age or disability benefit, shall be deemed to be entitled to such monthly benefit, but only for purposes of determining such person's eligibility for hospital insurance benefits.

42 USC 402.
42 USC 423.

(3) APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year, on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1) or (2) of this subsection, 42 USC 1395.

(B) the additional adminstrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

Subtitle F—Excise Taxes

PART I—AIRPORT AND AIRWAY

SEC. 279. TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.

(a) IMPOSITION OF TAX.—

(1) GASOLINE FUELS.—Paragraph (3) of subsection 4041(c) (relating to rate of tax) is amended by striking out "3 cents a gallon" and inserting in lieu thereof "8 cents a gallon (10½ cents a gallon in the case of any gasoline with respect to which a tax is imposed under section 4081 at the rate set forth in subsection (b) thereof)". 26 USC 4041.

(2) NONGASOLINE FUELS.—Paragraph (1) of subsection 4041(c) (relating to tax on fuel used in noncommercial aviation) is amended by striking out "7 cents" and inserting in lieu thereof "14 cents".

(3) TERMINATION.—Paragraph (5) of section 4041(c) is amended to read as follows:

"(5) TERMINATION.—The taxes imposed by paragraphs (1) and (2) shall apply during the period beginning on September 1, 1982, and ending on December 31, 1987."

(b) CERTAIN HELICOPTERS.—

(1) EXEMPTION.—Section 4041 (relating to tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(l) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for the purpose of—

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, or

"(2) the planting, cultivation, cutting or transportation of, or caring for, trees (including logging operation),

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such use." 49 USC 1701 note. *Post*, p. 671.

(2) REFUND OF TAX.— Subsection (d) of section 6427 (relating to fuels not used for taxable purposes) is amended— 26 USC 6427.

(A) by inserting "or is used in a helicopter for a purpose described in section 4041(l)," after "section 4041(h)(2)(C),"; and

(B) by inserting "or in Certain Helicopters" after "Museums" in the caption thereof.

26 USC 4041 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 1982.

SEC. 280. TAX ON TRANSPORTATION BY AIR.

26 USC 4261.

(a) TRANSPORTATION OF PERSONS.—Section 4261 (relating to imposition of tax) is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under subsection (a) or (b) on air transportation by helicopter for the purpose of—

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, or

"(2) the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such use.

49 USC 1701 note.
Post, p. 671.

"(f) TERMINATION.—The taxes imposed by this section shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1988."

26 USC 4271.

(b) TRANSPORTATION OF PROPERTY.—Subsection (d) of section 4271 is amended to read as follows:

"(d) TERMINATION.—The tax imposed by subsection (a) shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1988."

(c) REPEAL OF CERTAIN TERMINATED TAXES.—

26 USC 4491-4494.

(1) IN GENERAL.—Subchapter E of chapter 36 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) The table of subchapters for chapter 36 is amended by striking out the item relating to subchapter E.

26 USC 4281.

(B) Section 4281 (relating to small aircraft on nonestablished lines) is amended—

(i) by striking out "(as defined in section 4492(b))", and

(ii) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'maximum certificated takeoff weight' means the maximum such weight contained in the type certificate or airworthiness certificate."

26 USC 6156.

(C) Subsection (a) of section 6156 is amended by striking out "or 4491".

(D) Paragraph (2) of section 6156(e) is amended by striking out "in the case of the tax imposed by section 4481".

(E) The section heading for section 6156 is amended by striking out "AND CIVIL AIRCRAFT".

(F) The table of sections for subchapter A of chapter 62 is amended by striking out "and civil aircraft" in the item relating to section 6156.

Repeal.
26 USC 6426.

(G) Section 6426 is hereby repealed.

(H) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6426.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transportation beginning after August 31, 1982; except that such amendments shall not apply to any amount paid on or before such date. 26 USC 4261 note.

SEC. 281. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.

(a) GENERAL RULE.—Subchapter A of chapter 98 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9502. AIRPORT AND AIRWAY TRUST FUND. 26 USC 9502.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Airport and Airway Trust Fund', consisting of such amounts as may be appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Airport and Airway Trust Fund—

"(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

"(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under section 4081, with respect to gasoline used in aircraft; and

"(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of the types used on aircraft.

"(c) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

"(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

"(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1987, to meet those obligations of the United States—

"(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway Improvement Act of 1982 (as such Acts were in effect on the date of the enactment of the Airport and Airway Improvement Act of 1982); 49 USC 1701. 49 USC 1701 note. 49 USC 2101 note. 95 Stat. 622. *Post*, p. 671.

"(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

"(i) air traffic control,

"(ii) air navigation,

"(iii) communications, or

"(iv) supporting services,

for the airway system; or

"(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

"(2) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after August 31, 1982, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms, 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes), or 6427 (relating to fuels not used for taxable purposes).

"(3) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN SECTION 39 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 with respect to fuel used after August 31, 1982. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.".

(b) REPEAL OF SECTION 208 OF THE AIRPORT AND AIRWAY REVENUE ACT OF 1970.—Section 208 of the Airport and Airway Revenue Act of 1970 is hereby repealed.

49 USC 1742.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 98 is amended to read as follows:

"Sec. 9501. Black Lung Disability Trust Fund.
"Sec. 9502. Airport and Airway Trust Fund.".

26 USC 9501.

(2) The section heading for section 9501 (relating to establishment of Black Lung Disability Trust Fund) is amended to read as follows:

"SEC. 9501. BLACK LUNG DISABILITY TRUST FUND.".

26 USC 9502 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on September 1, 1982.

(2) SAVINGS PROVISIONS.—The Airport and Airway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970. Any reference in any law to the Airport and Airway Trust Fund established by such section 208 shall be deemed to include a reference to the Airport and Airway Trust Fund established by the amendments made by this section.

Supra.

SEC. 281A. TECHNICAL PROVISIONS RELATING TO TAX ON TRANSPORTATION OF PERSONS BY AIR.

(a) TECHNICAL MODIFICATIONS TO TRANSPORTATION OF PASSENGERS BY AIR.—

(1) LONGER LAYOVER PERMITTED TO QUALIFY AS UNINTERRUPTED INTERNATIONAL AIR TRANSPORTATION.—Paragraph (3) of section

4262(c) (defining uninterrupted international air transportation) is amended by striking out "6 hours" each place it appears and inserting in lieu thereof "12 hours". 26 USC 4262.

(2) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—Section 4262 (defining taxable transportation) is amended by adding at the end thereof the following new subsection: 26 USC 4262.

"(e) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—

"(1) IN GENERAL.—If the Secretary of the Treasury determines that Canada or Mexico has entered into a qualified agreement—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and Publication in Federal Register.

"(B) effective with respect to transportation beginning after the date specified in such notice, to the extent provided in the agreement, the term '225-mile zone' shall not include part or all of the country with respect to which such determination is made.

"(2) TERMINATION OF WAIVER.—If a determination was made under paragraph (1) with respect to any country and the Secretary of the Treasury subsequently determines that the agreement is no longer in effect or that the agreement is no longer a qualified agreement—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and Publication in Federal Register.

"(B) subparagraph (B) of paragraph (1) shall cease to apply with respect to transportation beginning after the date specified in such notice.

"(3) QUALIFIED AGREEMENT.—For purposes of this subsection, the term 'qualified agreement' means an agreement between the United States and Canada or Mexico (as the case may be)—

"(A) setting forth that portion of such country which is not to be treated as within the 225-mile zone, and

"(B) providing that the tax imposed by such country on transportation described in subparagraph (A) will be at a level which the Secretary of the Treasury determines to be appropriate.

"(4) REQUIREMENT THAT AGREEMENT BE SUBMITTED TO CONGRESS.—No notice may be published under paragraph (1)(A) with respect to any qualified agreement before the date 90 days after the date on which a copy of such agreement was furnished to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after August 31, 1982. 26 USC 4262 note.

(b) MANNER IN WHICH TAX ON TRANSPORTATION BY AIR IS REQUIRED TO BE SHOWN ON AIRLINE TICKETS.—

(1) GENERAL RULE.—Subsection (a) of section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended to read as follows: 26 USC 7275.

"(a) TICKETS.—In the case of transportation by air all of which is taxable transportation (as defined in section 4262), the ticket for such transportation shall show the total of—

"(1) the amount paid for such transportation, and

"(2) the taxes imposed by subsections (a) and (b) of section 4261.".

26 USC 7275 note.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act.

PART II—COMMUNICATIONS SERVICES

SEC. 282. EXTENSION OF EXCISE TAX ON COMMUNICATIONS SERVICES.

26 USC 4251.

(a) IN GENERAL.—Section 4251 (relating to imposition of tax on communications services) is amended by striking out subsections (a) and (b) and inserting the following new subsections:

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on amounts paid for communications services a tax equal to the applicable percentage of amounts so paid.

"(2) PAYMENT OF TAX.—The tax imposed by this section shall be paid by the person paying for such services.

"(b) DEFINITIONS.—"For purposes of subsection (a)—

"(1) COMMUNICATIONS SERVICES.—"The term 'communications services' means—

"(A) local telephone service;

"(B) toll telephone service; and

"(C) teletypewriter exchange service.

"(2) APPLICABLE PERCENTAGE.—"The term 'applicable percentage' means—

"With respect to amounts paid pursuant to bills first rendered—	The percentage is—
During 1983, 1984, or 1985	3
During 1986 or thereafter	0.".

26 USC 4251 note.

(b) EFFECTIVE DATE.—"The amendment made by subsection (a) shall apply with respect to amounts paid for communications services pursuant to bills first rendered after December 31, 1982.

PART III—CIGARETTES

SEC. 283. INCREASE IN TAX ON CIGARETTES.

26 USC 5701.

(a) RATE OF TAX.—Subsection (b) of section 5701 (relating to rate of tax on cigarettes) is amended—

(1) by striking out "$4" in paragraph (1) and inserting in lieu thereof "$8"; and

(2) by striking out "$8.40" in paragraph (2) and inserting in lieu thereof "$16.80".

26 USC 5701 note.

(b) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 1983, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $4 per thousand;

(B) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $8.40 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on January 1, 1983, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 and shall be due and payable on January 18, 1983 in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on January 1, 1983.

(3) CIGARETTE.—For purposes of this subsection, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(4) EXCEPTION FOR RETAILERS.—The taxes imposed by paragraph (1) shall not apply to cigarettes in retail stocks held on January 1, 1983, at the place where intended to be sold at retail.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to cigarettes removed after December 31, 1982 and before October 1, 1985. 26 USC 5701 note.

PART IV—TAPS ADJUSTMENT ELIMINATED

SEC. 284. ELIMINATION OF THE TAPS ADJUSTMENT.

(a) IN GENERAL. Subsection (d) of section 4996 (relating to Alaskan oil from Sadlerochit reservior) is amended to read as follows: 26 USC 4996.

"(d) ALASKAN OIL FROM SADLEROCHIT RESERVOIR.—For purposes of this chapter—

"(1) REMOVAL PRICE DETERMINED ON MONTHLY BASIS.—The removal price of Sadlerochit oil removed during any calendar month shall be the average of the producer's removal prices for such month.

"(2) SADLEROCHIT OIL DEFINED.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oilfield.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to oil removed after December 31, 1982. 26 USC 4996 note.

Subtitle G—Miscellaneous

SEC. 285. TWO-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME OF NATIONAL RESEARCH SERVICE AWARDS.

Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to exclusion from gross income for national research service awards) is amended by striking out "1981" and inserting in lieu thereof "1983". 26 USC 117 note.

SEC. 286. SPECIAL RULES FOR CERTAIN AMATEUR SPORTS ORGANIZATIONS.

(a) SPECIAL RULES.—Section 501 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection: 26 USC 501.

"(j) SPECIAL RULES FOR CERTAIN AMATEUR SPORTS ORGANIZATIONS.—

"(1) IN GENERAL.—In the case of a qualified amateur sports organization—

"(A) the requirement of subsection (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

"(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

"(2) QUALIFIED AMATEUR SPORTS ORGANIZATION DEFINED.—For purposes of this subsection, the term 'qualified amateur sports organization' means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports."

(b) DEFINITION OF CHARITABLE CONTRIBUTION.—(1) Subsection (c) of section 170 (defining charitable contribution) is amended by adding at the end of paragraph (2) the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.".

26 USC 170.

Ante, p. 569.

(2) Subsection (a) of section 2055 (relating to transfers for public, charitable, and religious uses) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).".

26 USC 2055.

(3) Subsection (a) of section 2522 (relating to charitable and similar gifts) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).".

26 USC 2522.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 5, 1976.

26 USC 501 note.

SEC. 287. NEW JERSEY GENERAL REVENUE SHARING ALLOCATION.

(a) IN GENERAL.—Subsection (e) of section 109 of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1228) (defining general tax effort factor) is amended by inserting at the end thereof the following new paragraph:

"(3) NEW JERSEY FRANCHISE AND GROSS RECEIPTS TAXES.—

"(A) The New Jersey Franchise and Gross Receipts Taxes (N.J. Rev. Stat. 54:30A-18.1) transferred to a unit of local government within the State in the years beginning January 1 of 1980, 1981, and 1982 shall be deemed to be an adjusted tax of such units for purposes of paragraph (2)(A)(i).

"(B) The provisions of subparagraph (A) shall be given effect for quarterly payments made for quarters beginning after December 31, 1982, only if the Governor of the State of New Jersey notifies the Secretary that, prior to January 1, 1983, the State amended the New Jersey Franchise and Gross Receipts Taxes statute to provide for collection and retention of such taxes by units of local government for years beginning as of January 1, 1983.

"(C) Notwithstanding the limitation in subparagraph (B), the provisions of subparagaph (A) shall be given effect with respect to the quarterly payment to be made for the quarter beginning October 1, 1982.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective after September 30, 1982.

31 USC 1228 note.

SEC. 288. ILLEGAL PAYMENTS TO GOVERNMENT OFFICIALS OR EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 162(c) (relating to illegal payments to Government officials or employees) is amended— 26 USC 162.

(1) by striking out "would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee" and inserting in lieu thereof "is unlawful under the Foreign Corrupt Practices Act of 1977", and 15 USC 78a note.

(2) by striking out "(or would be unlawful under the laws of the United States)" and inserting in lieu thereof "(or is unlawful under the Foreign Corrupt Practices Act of 1977)".

(b) COORDINATION WITH SUBPART F.—

(1) Subsection (a) of section 952 is amended by adding at the end thereof the following new sentence: 26 USC 952.

"The payments referred to in paragraph (4) are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person."

(2) Subsection (a) of section 964 is amended by adding at the end thereof the following new sentence: "The payments referred to in the preceding sentence are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person." 26 USC 964.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act. 26 USC 162 note.

SEC. 289. DEBT MANAGEMENT PROVISIONS.

(a) DETERMINATION BY SECRETARY OF INVESTMENT YIELD ON UNITED STATES SAVINGS BOND.—

(1) Subsection (b) of section 22 of the Second Liberty Bond Act (31 U.S.C. 757c) is amended—

(A) by amending paragraph (3) to read as follows:

"(3) The Secretary of the Treasury, with the approval of the President, may fix the investment yield on any United States savings bond. The Secretary of the Treasury, with the approval of the President, may provide for increases and decreases in the investment yield on any outstanding United States savings bond; except that the investment yield on any bond for the period held may not be decreased below the minimum yield for such period guaranteed at the time of its issuance.";

(B) by striking out "the Secretary of the Treasury may prescribe: Provided" and all that follows down through the end of the second sentence of paragraph (1) of such subsection and inserting in lieu thereof "the Secretary of the Treasury may prescribe.";

(C) by striking out "and shall be expressed in terms of their maturity value" in the third sentence of paragraph (1) of such subsection; and

(D) by striking out "higher rates which are consistent" and inserting in lieu thereof "rates which are consistent" in subparagraph (B) of paragraph (2) of such subsection.

(2) The second sentence of section 22A(b)(1) of such Act is amended by striking out "the Secretary of the Treasury may prescribe" and all that follows down through the end thereof and inserting in lieu thereof "the Secretary of the Treasury may prescribe.". 31 USC 757c-2.

(b) TRANSITIONAL RULE.—In the case of any savings bond issued before the 30th day after the date of the enactment of this Act, for 31 USC 757c note.

31 USC 757c, 757c-2.

purposes of sections 22 and 22A of the Second Liberty Bond Act, the minimum yield guaranteed for the period held shall be the scheduled investment yield for such period as in effect on such 30th day.

(c) LIMIT ON OUTSTANDING BONDS.—Effective on the date of the enactment of this Act, the last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$70,000,000,000" and inserting in lieu thereof "$110,000,000,000".

SEC. 290. JEFFERSON COUNTY MENTAL HEALTH CENTER.

(a) IN GENERAL.—The Secretary is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Jefferson County Mental Health Center, Incorporated, of Lakewood, Colorado, the sum of $50,000 in full settlement of all claims of the center against the United States for repayment of amounts the center erroneously refunded to its employees for social security contributions in the period after December 31, 1971, and prior to May 14, 1975, pursuant to instructions by the Internal Revenue Service.

(b) LIMITATION.—No part of the amount appropriated in subsection (a) in excess of 10 per centum shall be paid, delivered to, or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof be fined any sum not exceeding $1,000.

SEC. 291. ALASKA NATIVE CORPORATIONS.

26 USC 4994.

Paragraph (2) of subsection (d) of section 4994 of subpart B of chapter 45 (relating to windfall profit tax on domestic crude oil; categories of oil) is amended by striking "under" the first time it appears and inserting in lieu thereof "pursuant to".

SEC. 292. AWARDING OF COSTS AND CERTAIN FEES.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7430 as section 7431 and by inserting after section 7429 the following new section:

26 USC 7431.

26 USC 7430.

"SEC. 7430. AWARDING OF COURT COSTS AND CERTAIN FEES.

"(a) IN GENERAL.—In the case of any civil proceeding which is—

"(1) brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, and

"(2) brought in a court of the United States (including the Tax Court),

the prevailing party may be awarded a judgment for reasonable litigation costs incurred in such proceeding.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of reasonable litigation costs which may be awarded under subsection (a) with respect to any prevailing party in any civil proceeding shall not exceed $25,000.

"(2) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) unless the court determines that the prevailing party has exhausted the administrative

remedies available to such party within the Internal Revenue Service.

"(3) ONLY COSTS ALLOCABLE TO THE UNITED STATES.—An award under subsection (a) shall be made only for reasonable litigation costs which are allocable to the United States and not to any other party to the action or proceeding.

"(4) EXCLUSION OF DECLARATORY JUDGMENT PROCEEDINGS.—

"(A) IN GENERAL.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

"(B) EXCEPTION FOR SECTION 501(c)(3) DETERMINATION REVOCATION PROCEEDINGS.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

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

"(1) REASONABLE LITIGATION COSTS.—

"(A) IN GENERAL.—The term 'reasonable litigation costs' includes—

"(i) reasonable court costs,

"(ii) the reasonable expenses of expert witnesses in connection with the civil proceeding,

"(iii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(iv) reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding.

"(B) ATTORNEY'S FEES.—In the case of any proceeding in the Tax Court, fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court shall be treated as fees for the services of an attorney.

"(2) PREVAILING PARTY.—

"(A) IN GENERAL.—The term 'prevailing party' means any party to any proceeding described in subsection (a) (other than the United States or any creditor of the taxpayer involved) which—

"(i) establishes that the position of the United States in the civil proceeding was unreasonable, and

"(ii)(I) has substantially prevailed with respect to the amount in controversy, or

"(II) has substantially prevailed with respect to the most significant issue or set of issues presented.

"(B) DETERMINATION AS TO PREVAILING PARTY.—Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made—

"(i) by the court, or

"(ii) by agreement of the parties.

"(3) CIVIL ACTIONS.—The term 'civil proceeding' includes a civil action.

"(d) MULTIPLE ACTIONS.—For purposes of this section, in the case of—

"(1) multiple actions which could have been joined or consolidated, or

"(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single proceeding in the same court, such actions or cases shall be treated as one civil proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated for purposes of this section.

"(e) RIGHT OF APPEAL.—An order granting or denying an award for reasonable litigation costs under subsection (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

"(f) TERMINATION.—This section shall not apply to any proceeding commenced after December 31, 1985."

(b) PENALTY FOR USING TAX COURT PROCEEDINGS FOR DELAY; PENALTY FOR FRIVOLOUS OR GROUNDLESS PROCEEDING.—The first sentence of section 6673 (relating to damages assessable by instituting proceedings before the Tax Court merely for delay) is amended to read as follows: "Whenever it appears to the Tax Court that proceedings before it have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in such proceedings is frivolous or groundless, damages in an amount not in excess of $5,000 shall be awarded to the United States by the Tax Court in its decision.". 26 USC 6673.

(c) APPLICATION WITH TITLE 28.—Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section shall not apply to any costs, fees, and other expenses in connection with any proceeding to which section 7430 of the Internal Revenue Code of 1954 applies (determined without regard to subsections (b) and (f) of such section). Nothing in the preceding sentence shall prevent the awarding under subsection (a) of section 2412 of title 28, United States Code, of costs enumerated in section 1920 of such title (as in effect on October 1, 1981).".

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7430 and inserting the following new items:

"Sec. 7430. Awarding of court costs and certain fees.
"Sec. 7431. Cross references.".

(2)(A) The section heading of section 6673 is amended by striking out "MERELY FOR DELAY." and inserting in lieu thereof "PRIMARILY FOR DELAY, ETC.". 26 USC 6673.

(B) The table of sections for subchapter B of chapter 68 is amended by striking out "merely for delay." in the item relating to section 6673 and inserting in lieu thereof "primarily for delay, etc.".

(e) EFFECTIVE DATES.— 26 USC 7430 note.

(1) IN GENERAL.—The amendments made by this section shall apply to civil actions or proceedings commenced after February 28, 1983.

(2) PENALTY.—The amendments made by subsections (b) and (d)(2) shall apply to any action or proceeding in the Tax Court commenced after December 31, 1982.

SEC. 293. TREATMENT OF CERTAIN LENDING OR FINANCE BUSINESSES FOR PURPOSES OF THE TAX ON PERSONAL HOLDING COMPANIES.

(a) REMOVAL OF LIMITATION ON AMOUNT OF ORDINARY GROSS INCOME FROM LENDING OR FINANCE BUSINESS TAKEN INTO ACCOUNT.—Clause (ii) of section 542(c)(6)(C) (relating to exceptions from definition of personal holding company) is amended by striking out "but not $1,000,000". 26 USC 542.

(b) CHANGES IN DEFINITION OF LENDING OR FINANCE BUSINESS.—Clause (i) of section 542(d)(1)(B) (relating to exceptions from definition of lending or finance business) is amended to read as follows:

"(i) making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if (at the time of the loan, purchase, or discount) the remaining maturity exceeds 144 months; unless—

"(I) the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the sale of goods or services in the course of the borrower's or transferor's trade or business, or

"(II) the loans, notes, or installment obligations are made or acquired by the taxpayer and meet the requirements of subparagraph (C), or".

(c) INDEFINITE MATURITY CREDIT TRANSACTIONS.—Paragraph (1) of section 542(d) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

"(C) INDEFINITE MATURITY CREDIT TRANSACTIONS.—For purposes of subparagraph (B)(i), a loan, note, or installment obligation meets the requirements of this subparagraph if it is made under an agreement—

"(i) under which the creditor agrees to make loans or advances (not in excess of an agreed upon maximum amount) from time to time to or for the account of the debtor upon request, and

"(ii) under which the debtor may repay the loan or advance in full or in installments."

(d) EFFECTIVE DATES.— 26 USC 542 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1980.

SEC. 294. ADDITIONAL REFUNDS RELATING TO REPEAL OF EXCISE TAX ON BUSES.

(a) TIME FOR FILING CLAIM.—Subparagraph (C) of section 231(c)(2) of the Energy Tax Act of 1978 (relating to refunds with respect to certain consumer purchases) is amended by striking out "the first day of such 10th calendar month" and inserting in lieu thereof "December 31, 1982". 26 USC 4063 note.

(b) PROCEDURE FOR PASSING THROUGH REFUND.—Subparagraph (A) of section 231(c)(2) of such Act is amended by inserting before the semicolon ", or, in lieu of evidence of reimbursement, he makes such reimbursement simultaneously with the receipt of such a refund under an arrangement satisfactory to such Secretary which assures such simultaneous reimbursement".

TITLE III—TAXPAYER COMPLIANCE

Subtitle A—Withholding on Interest and Dividends

SEC. 301. WITHHOLDING ON INTEREST AND DIVIDENDS.

Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Withholding From Interest and Dividends

26 USC 3451.

"SEC. 3451. INCOME TAX COLLECTED AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this subchapter, the payor of any interest, dividend, or patronage dividend shall withhold a tax equal to 10 percent of the amount of the payment.

"(b) SPECIAL RULES.—

"(1) TIME OF WITHHOLDING.—Except as otherwise provided in this subchapter, for purposes of this subchapter—

"(A) any payment of interest, dividend, or patronage dividend shall be treated as made, and

"(B) the tax imposed by this section shall be withheld, at the time such interest, dividend, or patronage dividend is paid or credited.

"(2) PAYEE UNKNOWN.—If a payor is unable to determine the person to whom any interest, dividend, or patronage dividend is payable or creditable, the tax under this section shall be withheld at the time withholding would be required under paragraph (1) if the payee were known and were an individual.

"(3) AMOUNT OF DIVIDEND, ETC., UNKNOWN.—

"(A) IN GENERAL.—If the payor is unable to determine the portion of a distribution which is a dividend, the tax under this section shall be computed on the gross amount of the distribution. To the extent provided in regulations, a similar rule shall apply in the case of interest and patronage dividends.

"(B) DISTRIBUTIONS WHICH ARE NOT DIVIDENDS.—To the extent provided in regulations, this section shall not apply to the extent that the portion of a distribution which is not a dividend may reasonably be estimated.

"(4) WITHHOLDING FROM ALTERNATIVE SOURCE.—The Secretary shall prescribe regulations setting forth the circumstances under which the tax imposed by this section may be paid from

an account or source other than the payment which gives rise to the liability for tax.

"(c) LIABILITY FOR PAYMENT.—

"(1) PAYOR LIABLE.—Except as otherwise provided in this subchapter, the payor—

"(A) shall be liable for the payment of the tax imposed by this section which such payor is required to withhold under this section, and

"(B) shall not be liable to any person (other than the United States) for the amount of any such payment.

"(2) RELIANCE ON EXEMPTION CERTIFICATES.—The payor shall not be liable for the payment of tax imposed by this section which such payor is required to withhold under this section if—

"(A) such payor fails to withhold such tax, and

"(B) such failure is due to reasonable reliance on an exemption certificate delivered to such payor under section 3452(f) which is in effect with respect to the payee at the time such tax is required to be withheld under this section.

"SEC. 3452. EXEMPTIONS FROM WITHHOLDING. 26 USC 3452.

"(a) IN GENERAL.—Section 3451 shall not apply with respect to—

"(1) any payment to an exempt individual,

"(2) any payment to an exempt recipient,

"(3) any minimal interest payment, or

"(4) any qualified consumer cooperative payment.

"(b) EXEMPT INDIVIDUALS.—

"(1) IN GENERAL.—For purposes of this section, the term 'exempt individual' means any individual—

"(A) who is described in paragraph (2), and

"(B) with respect to whom an exemption certificate is in effect.

"(2) INDIVIDUALS DESCRIBED IN THIS PARAGRAPH.—An individual is described in this paragraph if—

"(A) such individual's income tax liability for the preceding taxable year did not exceed $600 ($1,000 in the case of a joint return under section 6013), or

"(B)(i) such individual is 65 or older, and

"(ii) such individual's income tax liability for the preceding taxable year did not exceed $1,500 ($2,500 in the case of a joint return under section 6013).

"(3) SPECIAL RULE FOR MARRIED PERSONS.—A husband and wife shall each be treated as satisfying the requirements of paragraph (2)(B)(i) if—

"(A) either spouse is 65 or older, and

"(B) such husband and wife made a joint return under section 6013 for the preceding taxable year.

"(4) SPECIAL RULE FOR CERTAIN TRUSTS DISTRIBUTING CURRENTLY.—Under regulations, a trust—

"(A) the terms of which provide that all of its income is required to be distributed currently, and

"(B) all the beneficiaries of which are individuals described in paragraph (2) or organizations described in subsection (c)(2)(B),

shall be treated as an individual described in paragraph (2).

"(5) INCOME TAX LIABILITY.—For purposes of this subsection, the term 'income tax liability' means the amount of the tax imposed by subtitle A for the taxable year, reduced by the sum

of the credits allowable against such tax (other than credits allowable by sections 31, 39, and 43).

26 USC 31, 39, 43.

"(c) EXEMPT RECIPIENTS.—

"(1) IN GENERAL.—For purposes of this section, the term 'exempt recipient' means any person described in paragraph (2)—

"(A) with respect to whom an exemption certificate is in effect, or

"(B) who is described in regulations prescribed by the Secretary which permit exemption from withholding without certification.

"(2) PERSONS DESCRIBED IN THIS PARAGRAPH.—A person is described in this paragraph if such person is—

"(A) a corporation,

"(B) an organization exempt from taxation under section 501(a) or an individual retirement plan,

"(C) the United States or a State,

"(D) a foreign government or international organization,

"(E) a foreign central bank of issue,

"(F) a dealer in securities or commodities required to register as such under the laws of the United States or a State,

"(G) a real estate investment trust (as defined in section 856),

"(H) an entity registered at all times during the taxable year under the Investment Company Act of 1940,

15 USC 80a-51.

"(I) a common trust fund (as defined in section 584(a)),

"(J) a nominee or custodian (except as otherwise provided in regulations),

"(K) to the extent provided in regulations—

"(i) a financial institution,

"(ii) a broker, or

"(iii) any other person specified in such regulations, who collects any interest, dividend, or patronage dividend for the payee or otherwise acts as a middleman between the payor and payee, or

"(L) any trust which—

"(i) is exempt from tax under section 664(c), or

"(ii) is described in section 4947(a)(1).

"(3) PAYOR MAY REQUIRE CERTIFICATION.—A person described in paragraph (1)(B) shall not be treated as an exempt recipient for purposes of this section with respect to any payment of such payor if—

"(A) an exemption certificate is not in effect with respect to such person, and

"(B) the payor does not treat such person as an exempt recipient.

"(d) MINIMAL INTEREST PAYMENTS.—

"(1) IN GENERAL.—For purposes of this section, the term 'minimal interest payment' means any payment of interest—

"(A) with respect to which an election by the payor made under paragraph (3) is in effect, and

"(B) which—

"(i) does not exceed $150, and

"(ii) if determined for a 1-year period would not exceed $150.

"(2) AGGREGATION OF PAYMENTS TO SAME PAYEE.—To the extent provided in regulations prescribed by the Secretary, payments of interest by a payor to the same payee shall be aggregated for purposes of applying paragraph (1)(B).

"(3) ELECTION.—

"(A) IN GENERAL.—Any payor may make an election under this paragraph with respect to any type of interest payments.

"(B) EFFECTIVE UNTIL REVOKED.—Except as provided in regulations prescribed by the Secretary, an election made by any person under this paragraph shall remain in effect until revoked by such person.

"(C) TIME AND MANNER.—Any election or revocation of an election made under this paragraph shall be made at such time and in such manner as the Secretary shall prescribe by regulations.

"(e) QUALIFIED CONSUMER COOPERATIVE PAYMENT.—For purposes of this section, the term 'qualified consumer cooperative payment' means any payment by a cooperative which is exempt from reporting requirements under section 6044(a) by reason of section 6044(c).

"(f) EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—

"(A) DELIVERY.—An exempt individual or exempt recipient may deliver an exemption certificate to a payor at any time. Such certificate shall be in such form and contain such information as the Secretary shall prescribe.

"(B) CHANGE OF STATUS.—Any person who ceases to be an exempt individual or exempt recipient shall, not later than the close of the 10th day after the date of such cessation, notify each payor with whom such person has an exemption certificate of such change in status. No notice shall be required under the preceding sentence with respect to any payor if it reasonably appears that the person will not thereafter receive a payment of interest, dividends, or patronage dividends from such payor.

"(2) EFFECTIVENESS OF CERTIFICATES.—

"(A) GENERAL RULE.—Except as otherwise provided in regulations prescribed by the Secretary, an exemption certificate shall be effective until—

"(i) revoked, or

"(ii) notice of change in status is provided pursuant to paragraph (1)(B).

"(B) WHEN CERTIFICATE TAKES EFFECT.—The Secretary shall prescribe regulations setting forth—

"(i) the day on which a filed exemption certificate shall be considered effective, and

"(ii) the circumstances under which a payor shall treat an exemption certificate as having ceased to be effective where the Secretary has determined that the person described therein is not an exempt individual or exempt recipient.

"SEC. 3453. PAYOR DEFINED. 26 USC 3453.

"(a) GENERAL RULE.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term 'payor' means the person paying or crediting the interest, dividend, or patronage dividend.

"(b) CERTAIN MIDDLEMEN TREATED AS PAYORS.—For purposes of this subchapter—

"(1) IN GENERAL.—To the extent provided in regulations—

"(A) any custodian for, or nominee of, the payee,

"(B) any corporate trustee of a trust which is the payee, or

"(C) any person which collects the payment for the payee or otherwise acts as a middleman between the payor and the payee,

shall be treated as a payor with respect to the payment.

"(2) RECEIPT TREATED AS PAYMENT.—To the extent provided in regulations, any person treated as a payor under paragraph (1) shall be treated as having paid the interest, dividend, or patronage dividend when such person received such amount.

"(c) AGENTS, ETC.—In the case of—

"(1) a fiduciary or agent with respect to the payment or crediting of any interest, dividend, or patronage dividend, or

"(2) any other person who has the control, receipt, custody, or disposal of, or pays or credits any interest, dividend, or patronage dividend for any payor,

the Secretary, under regulations prescribed by him, may designate such fiduciary, agent, or other person as a payor with respect to such payment or crediting for purposes of this subchapter.

"(d) TREATMENT OF PERSONS TO WHOM SUBSECTION (b) OR (c) APPLIES.—Any person treated as a payor under subsection (b) or (c)—

"(1) shall perform such acts as are required of a payor (within the meaning of subsection (a)) and as may be specified by the Secretary, and

"(2) shall be treated as a payor for all provisions of law (including penalties) applicable in respect to a payor (within the meaning of subsection (a)).

"(e) RELIEF FROM DOUBLE WITHHOLDING.—The Secretary may by regulations provide that where any person is treated as a payor under subsection (b) or (c) with respect to any payment, any other person who (but for this subsection) would be treated as a payor with respect to such payment shall be relieved from the requirements of this subchapter to the extent provided in such regulations.

"(f) LIABILITY OF THIRD PARTIES PAYING OR PROVIDING INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.—To the extent provided in regulations prescribed by the Secretary, rules similar to the rules of section 3505 (relating to liability of third parties paying or providing for wages) shall apply for purposes of this subchapter. For purposes of the preceding sentence, the last sentence of subsection (b) of section 3505 shall be applied by substituting '10 percent' for '25 percent'.

26 USC 3454.

"SEC. 3454. DEFINITIONS OF INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND.

"(a) INTEREST DEFINED.—For purposes of this subchapter—

"(1) GENERAL RULE.—The term 'interest' means—

"(A) interest on any obligation in registered form or of a type offered to the public,

"(B) interest on deposits with persons carrying on the banking business,

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association,

building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

"(E) interest on deposits with brokers (as defined in section 6045(c)), and

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"(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts.

"(2) EXCEPTIONS.—The term 'interest' does not include—

"(A) interest on any obligation issued by a natural person,

"(B) interest on any obligation if such interest is exempt from taxation under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,

"(C) any amount paid on a depository institution tax-exempt certificate (as defined in section 128(c)(1) (as in effect for taxable years beginning before January 1, 1985)),

95 Stat. 267.

"(D) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount,

"(E) any amount which would be subject to withholding under subchapter A of chapter 3 by the person paying such amount but for the fact that—

"(i) such amount is income from sources outside the United States,

"(ii) the payor thereof is excepted from the application of section 1441(a) by reason of section 1441(c) or a tax treaty, or

"(iii) such amount is original issue discount (within the meaning of section 1232(b)(1)),

"(F) any amount which is exempt from tax under—

"(i) section 892 (relating to income of foreign governments and of international organizations), or

"(ii) section 895 (relating to income derived by a foreign central bank of issue from obligations of the United States or from bank deposits),

"(G) except to the extent otherwise provided in regulations, any amount paid by—

"(i) a foreign government or international organization or any agency or instrumentality thereof,

"(ii) a foreign central bank of issue,

"(iii) a foreign corporation not engaged in trade or business in the United States,

"(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

"(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident aliens, individuals and persons described in clause (i), (ii), or (iii),

"(H) any amount on which the person making payment is required to withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions), and

"(I) except to the extent otherwise provided in regulations, any amount not described in the foregoing provisions of this paragraph which is paid outside the United States and is income from sources outside the United States.

"(3) ADJUSTMENT FOR PENALTY BECAUSE OF PREMATURE WITHDRAWAL OF FUNDS FROM TIME SAVINGS ACCOUNTS OR DEPOSITS.—To the extent provided in regulations, the amount of any interest on a time savings account, certificate of deposit, or similar class of deposits shall be appropriately reduced for purposes of this suchapter by the amount of any penalty imposed for the premature withdrawal of funds.

"(b) DIVIDEND DEFINED.—For purposes of this subchapter—

"(1) GENERAL RULE.—The term 'dividend' means—

"(A) any distribution by a corporation which is a dividend (as defined in section 316), and

"(B) any payment made by a stockbroker to any person as a substitute for a dividend (as so defined).

"(2) SUBCHAPTER S DISTRIBUTIONS AFTER CLOSE OF YEAR.—The term 'dividend' includes any distribution described in section 1375(f) (relating to distributions by electing small business corporations after the close of the taxable year).

"(3) EXCEPTIONS.—The term 'dividend' shall not include—

"(A) any amount paid as a distribution of stock described in section 305(e)(2)(A) (relating to reinvestment of dividends in stock of public utilities), 95 Stat. 287.

"(B) any amount which is treated as a taxable dividend by reason of section 302 (relating to redemptions of stock), 306 (relating to disposition of certain stock), 356 (relating to receipt of additional consideration in connection with certain reorganizations), or 1081(e)(2) (relating to certain distributions pursuant to order of the Securities and Exchange Commission),

"(C) any amount described in subparagraph (D), (E), or (F) of subsection (a)(2),

"(D) to the extent provided in regulations, any amount paid by a foreign corporation not engaged in a trade or business in the United States,

"(E) any amount which is a capital gain dividend distributed by—

"(i) a regulated investment company (as defined in section 852(b)(3)(C)), or

"(ii) a real estate investment trust (as defined in section 857(b)(3)(C)),

"(F) any amount which is an exempt-interest dividend of a regulated investment company (as defined in section 852(b)(5)(A)),

"(G) any amount paid or treated as paid by a regulated investment company during a year if, under regulations prescribed by the Secretary, it is anticipated that at least 95 percent of the dividends paid or treated as paid during such year (not including capital gain distributions) will be exempt-interest dividends, and

"(H) any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations).

"(c) PATRONAGE DIVIDEND.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'patronage dividend' means—

"(A) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notice of allocation, or other property (except a nonqualified written notice of allocation),

"(B) any amount, described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions), which is paid in money, qualified written notice of allocation, or other property (except nonqualified written notice of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

"(C) any amount paid in money or other property (except written notice of allocation) in redemption of a nonqualified written notice of allocation attributable to any source described in subparagraph (A) or (B).

"(2) EXCEPTIONS.—The term 'patronage dividend' shall not include any amount described in subparagraph (D), (E), or (F) of subsection (a)(2).

"(3) SPECIAL RULES.—In determining the amount of any patronage dividend—

"(A) property (other than a written notice of allocation) shall be taken into account at its fair market value,

"(B) a qualified written notice of allocation described in section 1388(c)(1)(A) shall be taken into account at its stated dollar amount, and

"(C) a patronage dividend part of which is a qualified written notice of allocation described in section 1388(c)(1)(B) (and not in section 1388(c)(1)(A)) shall be taken into account only if 50 percent or more of such dividend is paid in money or by a qualified check, and any such qualified written notice of allocation which is taken into account after the application of this subparagraph shall be taken into account at its stated dollar amount.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED WRITTEN NOTICE OF ALLOCATION.—The term 'qualified written notice of allocation' has the meaning given to such term by section 1388(c).

"(B) NONQUALIFIED WRITTEN NOTICE OF ALLOCATION.—The term 'nonqualified written notice of allocaton' has the meaning given to such term by section 1388(d).

"(C) QUALIFIED CHECK.—The term 'qualified check' has the meaning given to such term by section 1388(c)(4).

"SEC. 3455. OTHER DEFINITIONS AND SPECIAL RULES. 26 USC 3455.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) PERSON.—The term 'person' includes any governmental unit and any agency or instrumentality thereof and any international organization.

"(2) STATE.—The term 'State' means a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(3) UNITED STATES.—The term 'United States' means the United States and any wholly owned agency or instrumentality thereof.

"(4) FOREIGN GOVERNMENT.—The term 'foreign government' means a foreign government, a political subdivision of a foreign government, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(5) INTERNATIONAL ORGANIZATION.—The term 'international organization' means an international organization and any wholly owned agency or instrumentality thereof.

"(6) NONRESIDENT ALIEN.—The term 'nonresident alien individual' includes an alien resident of Puerto Rico.

"(7) WITHHOLD, ETC., INCLUDE DEDUCT.—The terms 'withhold', 'withholding', and 'withheld' include deduct, deducting, and deducted.

"(b) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) the tax imposed by section 3451 shall apply to the amount of original issue discount on any obligation which is includible in the gross income of the holder during the calendar year. Any such amount shall be treated as a payment for purposes of this subchapter.

Ante, p. 576.

"(2) TRANSFERRED OBLIGATIONS.—

"(A) IN GENERAL.—In the case of original issue discount on any obligation which has been transferred from the original holder, the tax imposed by section 3451 shall apply to such original issue discount as if the subsequent holder were the original holder.

"(B) SPECIAL RULE FOR SHORT-TERM OBLIGATIONS.—In the case of any obligation with a fixed maturity date not exceeding 1 year from the date of issue which has been transferred from the original holder, if any subsequent purchaser establishes the date on which, and the purchase price at which, he acquired such obligation, the amount of original issue discount on such obligation shall be determined (subject to such regulations as the Secretary may prescribe) as if it were issued on the date such subsequent purchaser acquired such obligation for an issue price equal to the purchase price at which such subsequent purchaser acquired such obligation.

"(3) LIMITATION ON AMOUNT WITHHELD.—

"(A) IN GENERAL.—The amount of tax imposed by section 3451 on the original issue discount on any obligation which is required to be withheld under section 3451(a) in any calendar year shall not exceed the amount of cash paid with respect to such obligation during such calendar year.

"(B) AUTHORITY OF SECRETARY TO ELIMINATE LIMITATION IN CERTAIN CASES.—If the Secretary determines by regulations that a type of obligation is frequently used to avoid the purposes of this subchapter, subparagraph (A) shall not apply with respect to original issue discount on any obligation of such type which is issued more than 30 days after the first date on which such regulations are published in the Federal Register.

"(C) PAYMENTS FROM WHICH WITHHOLDING IS TO BE MADE.—Except to the extent otherwise provided in regulations, the tax imposed by section 3451 with respect to

original issue discount for any calendar year shall be withheld from each cash payment made with respect to such obligation during such calendar year in the proportion which the amount of such payment bears to the aggregate of such payments.

"(4) ORIGINAL ISSUE DISCOUNT DEFINED.—For purposes of this subsection, the term 'original issue discount' has the meaning given such term by section 1232(b)(1).

"SEC. 3456. ADMINISTRATIVE PROVISIONS. 26 USC 3456.

"(a) RETURN AND PAYMENT BY GOVERNMENTAL UNITS.—If the payor of any payment subject to withholding under section 3451 is the United States or a State, or an agency or instrumentality thereof, the return of the tax withheld under this subchapter shall be made by the officer or employee having control of the payment of the amount subject to withholding or by any officer or employee appropriately designated to make such withholding.

"(b) ANNUAL WITHHOLDING BY FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, a financial institution described in subparagraph (B) or (C) of section 3454(a)(1) may elect to defer withholding of the tax imposed by section 3451 during any calendar year on interest paid on savings accounts, interest-bearing checking accounts, and similar accounts until a date which is not later than the last day of such year. *Ante*, p. 580.

"(2) CONDITION FOR ELECTION.—The regulations prescribed under paragraph (1) shall provide that an election under such paragraph is conditional on agreement by the person making the election—

"(A) that the balance in any account subject to such election shall at no time be less than an amount equal to the tax under section 3451 which would have been withheld as of such time if such election were not in effect, and

"(B) that if an account subject to such election is closed before the date on which the tax under section 3451 would (but for this subparagraph) be withheld as a result of such an election, the tax shall be withheld before the time of closing such account.

"(c) TAX PAID BY RECIPIENT.—If a payor, in violation of the provisions of this subchapter, fails to withhold the tax imposed under section 3451, and thereafter the tax against which such tax may be credited is paid, the tax so required to be withheld shall not be collected from the payor; but this subsection shall in no case relieve the payor from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to withhold.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subchapter."

SEC. 302. CREDIT AGAINST TAX.

(a) IN GENERAL.—Section 31 (relating to tax withheld on wages) is amended to read as follows: 26 USC 31.

"SEC. 31. TAX WITHHELD ON WAGES, INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) WAGE WITHHOLDING.—The amount withheld under section 3402 as tax on the wages of any individual shall be allowed to the

recipient of the income as a credit against the tax imposed by this subtitle.

"(b) WITHHOLDING FROM INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—The amount withheld under section 3451 as tax on interest, dividends, and patronage dividends shall be allowed to the recipient of the income as a credit against the tax imposed by this subtitle.

"(c) CREDIT FOR SPECIAL REFUNDS OF SOCIAL SECURITY TAX.—The Secretary may prescribe regulations providing for the crediting against the tax imposed by this subtitle of the amount determined by the taxpayer or the Secretary to be allowable under section 6413(c) as a special refund of tax imposed on wages. The amount allowed as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402.

"(d) YEAR FOR WHICH CREDIT ALLOWED.—

"(1) IN GENERAL.—Except as otherwise provided in paragraph (2), any credit allowed by this section shall be allowed for the taxable year beginning in the calendar year in which the amount was withheld (or, in the case of subsection (c), in which the wages were received). If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

"(2) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF SUBCHAPTER S CORPORATIONS.—The amount withheld with respect to a distribution by an electing small business corporation (within the meaning of section 1371(b)) which is treated as a distribution of such corporation's undistributed taxable income for the preceding year under section 1375(f)(1) shall be allowed as a credit for the taxable year of the recipient beginning in the calendar year in which the preceding year of the corporation ends."

(b) TREATMENT OF ESTATES AND TRUSTS.—

26 USC 643. (1) IN GENERAL.—Section 643 (relating to definitions applicable to estates and trusts) is amended by adding at the end thereof the following new subsection:

"(d) COORDINATION WITH WITHHOLDING ON INTEREST AND DIVIDENDS.—Except to the extent otherwise provided in regulations, this subchapter shall be applied with respect to payments subject to withholding under subchapter B of chapter 24—

"(1) by allocating between the estate or trust and its beneficiaries any credit allowable under section 31(b) (on the basis of their respective shares of interest, dividends, and patronage dividends taken into account under this subchapter),

"(2) by treating each beneficiary to whom such credit is allocated as if an amount equal to such credit had been paid to him by the estate or trust, and

"(3) by allowing the estate or trust a deduction in an amount equal to the credit so allocated to beneficiaries."

26 USC 661. (2) TECHNICAL AMENDMENT.—Subsection (a) of section 661 (relating to deduction for estates and trusts accumulating income or distributing corpus) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), the amount of distributable net income shall be computed without the deduction allowed by section 642(c)."

26 USC 6413 (c) CONFORMING AMENDMENT.—Paragraph (1) of section 6413(c) is amended by striking out "section 31(b)" and inserting in lieu thereof "section 31(c)".

SEC. 303. RETURNS REGARDING PAYMENTS OF DIVIDENDS AND PAYMENTS OF INTEREST.

(a) DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of subsection 6042(a) (relating to returns regarding payments of dividends) is amended— 26 USC 6042.

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or" at the end of subparagraph (B),

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) who is required to withhold tax under section 3451 on any payment of dividends,", *Ante*, p. 576.

(D) by striking out the period at the end thereof, and

(E) by inserting the following at the end thereof ", and, in the case of a payment upon which tax is withheld, the amount of tax withheld."

(2) STATEMENTS.—Section 6042(c) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and",

(C) by inserting after paragraph (2) the following paragraph:

"(3) the amount of tax withheld under section 3451.", and

(D) by striking out "No statement" in the last sentence thereof and inserting in lieu thereof "Except in the case of a return required by reason of subparagraph (C) of subsection (a)(1), no statement".

(3) DUPLICATE FILED WITH SECRETARY.—Section 6042 is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

(b) INTEREST.—Section 6049 (relating to returns regarding payments of interest) is amended by adding at the end thereof the following new subsection: *Post*, p. 591.

"(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

SEC. 304. RETURNS REGARDING PAYMENTS OF PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Paragraph (1) of subsection 6044(a) is amended to read as follows: 26 USC 6044.

"(1) IN GENERAL.—Except as otherwise provided in this section, every cooperative to which part I of subchapter T of chapter 1 applies which—

"(A) makes payments of amounts described in subsection (b) aggregating $10 or more to any person during any calendar year, or

"(B) is required to withhold any tax under section 3451, shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount

of such payments, the name and address of the person to whom paid, and the amount of tax withheld."

(b) AMOUNTS SUBJECT TO REPORTING.—Paragraph (1) of section 6044(b) (relating to amounts subject to reporting) is amended by striking out "under subsection (a)", and by inserting "under paragraph (1)(A) or (2) of subsection (a)". 26 USC 6044.

(c) STATEMENTS.—Section 6044(e) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2), and inserting ", and" in lieu thereof,

(3) by inserting after paragraph (2) the following paragraph: "(3) the amount of tax withheld under section 3451.", and

(4) by striking out "No statement" in the last sentence thereof and inserting in lieu thereof "Except in the case of a return required by reason of subparagraph (B) of subsection (a)(1), no statement".

(d) DUPLICATE FILED WITH SECRETARY.—Section 6044 is amended by adding at the end thereof the following new subsection:

"(f) DUPLICATE OF SUBSECTION (e) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (e) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

SEC. 305. DENIAL OF DEDUCTION FOR CERTAIN TAXES.

(a) NO DEDUCTION FOR TAX WITHHELD AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—Paragraph (1) of section 275(a) (relating to denial of deduction for certain taxes) is amended— 26 USC 275.

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(3) by inserting after subparagraph (C) the following subparagraph:

"(D) the tax withheld at source on interest, dividends, and patronage dividends under section 3451."

(b) NO DEDUCTION OF TAXES WITHHELD ON INTEREST AND DIVIDENDS IN DETERMINING TAXABLE INCOME.—Subsection (b) of section 3502 (relating to the nondeductibility of taxes in computing taxable income) is amended— 26 USC 3502.

(1) by striking out "under chapter 24" and inserting in lieu thereof "under subchapter A of chapter 24", and

(2) by adding at the end thereof the following new subsection:

"(c) The tax withheld under subchapter B of chapter 24 shall not be allowed as a deduction in computing taxable income under subtitle A either to the person withholding the tax or to the recipient of the amounts subject to withholding."

SEC. 306. PENALTIES.

(a) CIVIL PENALTY.—Paragraph (1) of section 6682(a) (relating to false information with respect to withholding) is amended by inserting "or section 3452(f)(1)(A)" after "section 3402". 26 USC 6682.

(b) CRIMINAL PENALTY.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended— 26 USC 7205.

(1) by striking out "Any individual" and inserting in lieu thereof "(a) WITHHOLDING ON WAGES.—Any individual", and

(2) by adding at the end thereof the following new subsection:

"(b) WITHHOLDING OF INTEREST AND DIVIDENDS.—Any person who—

"(1) willfully files an exemption certificate with any payor under section 3452(f)(1)(A), which is known by him to be fraudulent or to be false as to any material matter, or *Ante*, p. 577.

"(2) is required to furnish notice under section 3452(f)(1(B), and willfully fails to furnish such notice in the manner and at the time required pursuant to section 3452(f)(1)(B) or the regulations prescribed thereunder,

shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than $500, or imprisoned not more than 1 year, or both."

SEC. 307. CONFORMING AND CLERICAL AMENDMENTS.

(a) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 274(e) (relating to disallowance of certain entertainment, etc., expenses) is amended by inserting "subchapter A of" before "chapter 24". 26 USC 274.

(2) Section 3403 (relating to liability for tax) is amended by striking out "this chapter" and inserting in lieu thereof "this subchapter". 26 USC 3403.

(3) Paragraph (4) of section 3507(d) (relating to advance payment of earned income credit) is amended by inserting "subchapter A of" before "chapter 24". 26 USC 3507.

(4) Subchapter (B) of section 6013(g)(1) (relating to joint returns of income tax by husband and wife) is amended by striking out "(relating to wage withholding)" and by inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages". 26 USC 6013.

(5) Paragraph (1) of section 6013(h) is amended by striking out "(relating to wage withholding)" and inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".

(6) Paragraph (1) of section 6015(j) (relating to declaration of estimated income tax by individuals) is amended by striking out ", as defined in section 3401(a)," and inserting in lieu thereof "(as defined in section 3401(a)) , or to the interest, dividends, and patronage dividends (as defined in section 3454),". 95 Stat. 345.

(7) Subparagraph (A) of section 6051(f)(1) (relating to receipts for employees) is amended by inserting "subchapter A of" before "chapter 24". 26 USC 6051.

(8) Paragraph (2) of section 6365(c) (relating to definitions and special rules for purposes of the collection of State individual income taxes) is amended by inserting ", interest, dividends, and patronage dividends" before "paid on or after such date". 26 USC 6365.

(9) Subsection (b) of section 6401 (relating to amounts treated as overpayments) is amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld on wages". 26 USC 6401.

(10) Paragraph (1) of section 6413(a) (relating to special credit and refund rules applicable to certain employment taxes) is amended by striking out "or 3402 is paid with respect to any payment of remuneration," and inserting in lieu thereof "3402 26 USC 6413.

or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts,".

26 USC 6413. (11) Subsection (b) of section 6413 is amended—

(A) by striking from the heading of such subsection the words "OF CERTAIN EMPLOYMENT TAXES", and

(B) by striking out "or 3402 is paid or deducted with respect to any payment of remuneration" and inserting in lieu thereof "3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount".

(12) The heading for section 6413 is amended to read as follows:

"SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN TAXES UNDER SUBTITLE C."

(13) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6413 and inserting in lieu thereof the following:

"Sec. 6413. Special rules applicable to certain taxes under subtitle C."

26 USC 6654. (14) Subsections (e)(1) and (g)(3) of section 6654 (relating to failure by individuals to pay estimated income tax) are amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld at source on wages".

26 USC 7215. (15) The last sentence of section 7215(b) (relating to offenses with respect to collected taxes) is amended to read as follows: "For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages or amounts subject to withholding under subchapter B of chapter 24 (whether or not created by the payment of such wages or amounts) shall not be considered to be circumstances beyond the control of a person."

26 USC 7654. (16) Subsection (d) of section 7654 (relating to coordination of United States and Guam individual income taxes) is amended by inserting "subchapter A of" before "chapter 24".

26 USC 7701. (17) Section 7701(a)(16) (defining the term "withholding agent") is amended by striking out "or 1461" and inserting in lieu thereof "1461 or 3451".

(b) CLERICAL AMENDMENTS.—

(1) The heading of subtitle C is amended to read as follows:

"Subtitle C—Employment Taxes and Collection of Income Tax at Source".

(2) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle C and inserting in lieu thereof the following:

"SUBTITLE C. Employment taxes and collection of income tax at source."

(3) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 31 and inserting in lieu thereof the following:

"Sec. 31. Tax withheld on wages, interest, dividends, and patronage dividends."

(4) Chapter 24 is amended by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE

"SUBCHAPTER A. Withholding from wages.
"SUBCHAPTER B. Withholding from interest and dividends.

"Subchapter A—Withholding From Wages".

(5) The heading for chapter 25 is amended to read as follows:

"CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES AND COLLECTION OF INCOME TAXES AT SOURCE".

(6) The table of chapters for subtitle C is amended by striking out the items relating to chapters 24 and 25 and inserting in lieu thereof the following:

"CHAPTER 24. Collection of income tax at source.
"CHAPTER 25. General provisions relating to employment taxes and collection of income taxes at source."

SEC. 308. EFFECTIVE DATES; SPECIAL RULES. 26 USC 3451 note.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this part shall apply to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983.

(b) DELAY IN APPLICATION TO CERTAIN PAYORS.—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond December 31, 1983) the application of some or all of the provisions of subchapter B of chapter 24 of the Internal Revenue Code of 1954 to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(c) TEMPORARY RULE FOR CERTAIN WITHHOLDING EXEMPTIONS.—Until regulations are prescribed by the Secretary of the Treasury or his delegate under section 3452(c)(1)(B) of the Internal Revenue Code of 1954 (as added by this part), the payor may treat any person whose name reasonably indicates that such person is described in paragraph (2) of section 3452(c) of such Code (other than subparagraph (J) or (K) thereof) as an exempt recipient. *Ante*, p. 577.

(d) DELAY IN MAKING DEPOSITS.—The time for making deposits under section 6302 of the Internal Revenue Code of 1954 of the tax imposed by section 3451 of such Code which is withheld by any person shall, to the extent provided in regulations, take into account the cost to such person of instituting a withholding system in order to comply with subchapter B of chapter 24 of such Code.

Subtitle B—Improved Information Reporting

PART I—EXPANDED REPORTING

SEC. 309. REPORTING OF INTEREST.

(a) GENERAL RULE.—Section 6049 (relating to returns regarding payments of interest) is amended to read as follows: 26 USC 6049.

"SEC. 6049. RETURNS REGARDING PAYMENTS OF INTEREST.

"(a) REQUIREMENT OF REPORTING.—Every person—

"(1) who makes payments of interest (as defined in subsection (b)) aggregating $10 or more to any other person during any calendar year,

"(2) who receives payments of interest (as so defined) as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the interest so received, or

"(3) who is required under subchapter B of chapter 24 to withhold tax on the payment of any interest,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld.

"(b) INTEREST DEFINED.—

"(1) GENERAL RULE.—For purposes of subsection (a), the term 'interest' means—

"(A) interest on any obligation—

"(i) issued in registered form, or

"(ii) of a type offered to the public,

other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation,

"(B) interest on deposits with persons carrying on the banking business,

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

"(E) interest on deposits with brokers (as defined in section 6045 (c)), *Post*, p. 600.

"(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts, and

"(G) to the extent provided in regulations prescribed by the Secretary, any other interest (which is not described in paragraph (2)).

"(2) EXCEPTIONS.—For purposes of subsection (a), the term 'interest' does not include—

"(A) interest on any obligation issued by a natural person,

"(B) interest on any obligation if such interest is exempt from tax under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,

"(C) except to the extent otherwise provided in regulations—

"(i) any amount paid to any person referred to in paragraph (2) of section 3452(c) (other than subparagraphs (J) and (K) thereof), or *Ante*, p. 577.

"(ii) any amount described in section 3454(a)(2)(D) or (E),

"(D) except to the extent otherwise provided in regulations, any amount not described in subparagraph (C) of this paragraph which is income from sources outside the United States or which is paid by—

"(i) a foreign government or international organization or any agency or instrumentality thereof,

"(ii) a foreign central bank of issue,

"(iii) a foreign corporation not engaged in a trade or business in the United States,

"(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

"(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident alien individuals and persons described in clause (i), (ii), or (iii), and

"(E) any amount on which the person making payment is required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions).

"(3) PAYMENTS BY UNITED STATES NOMINEES, ETC., OF UNITED STATES PERSON.—If, within the United States, a United States person—

"(A) collects interest (or otherwise acts as a middleman between the payor and payee) from a foreign person described in paragraph (2)(D) or collects interest from a United States person which is income from sources outside the United States for a second person who is a United States person, or

"(B) makes payments of such interest to such second United States person,

notwithstanding paragraph (2)(D), such payment shall be subject to the requirements of subsection (a) with respect to such second United States person.

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—

"(1) IN GENERAL.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(A) the name and address of the person making such return,

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person as shown on such return, and

"(C) the aggregate amount of tax deducted and withheld with respect to such person under subchapter B of chapter 24.

"(2) STATEMENT MUST BE FURNISHED ON OR BEFORE JANUARY 31.—The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(3) NO STATEMENT REQUIRED WHERE INTEREST IS LESS THAN $10.—No statement with respect to payments of interest to any person shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person shown on the return made with respect to paragraph (1) or (2), as the case may be, of subsection (a) is less than $10.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PERSON.—The term 'person' includes any governmental unit and any agency or instrumentality thereof and any international organization and any agency or instrumentality thereof.

"(2) OBLIGATION.—The term 'obligation' includes bonds, debentures, notes, certificates, and other evidences of indebtedness.

"(3) PAYMENTS BY GOVERNMENTAL UNITS.—In the case of payments made by any governmental unit or any agency or instrumentality thereof, the officer or employee having control of the payment of interest (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

"(4) FINANCIAL INSTITUTIONS, BROKERS, ETC., COLLECTING INTEREST MAY BE SUBSTITUTED FOR PAYOR.—To the extent and in the manner provided by regulations, in the case of any obligation—

"(A) a financial institution, broker, or other person specified in such regulations which collects interest on such obligation for the payee (or otherwise acts as a middleman between the payor and the payee) shall comply with the requirements of subsections (a) and (c), and

"(B) no other person shall be required to comply with the requirements of subsections (a) and (c) with respect to any interest on such obligation for which reporting is required pursuant to subparagraph (A).

"(5) INTEREST ON CERTAIN OBLIGATIONS MAY BE TREATED ON A TRANSACTIONAL BASIS.—

"(A) IN GENERAL.—To the extent and in the manner provided in regulations, this section shall apply with respect to—

"(i) any person described in paragraph (4)(A), and

"(ii) in the case of any United States savings bonds, any Federal agency making payments thereon,

on any transactional basis rather than on an annual aggregation basis.

"(B) SEPARATE RETURNS AND STATEMENTS.—If subparagraph (A) applies to interest on any obligation, the return under subsection (a) and the statement furnished under subsection (c) with respect to such transaction may be made separately, but any such statement shall be furnished to the payee at such time as the Secretary may prescribe by regulations but not later than January 31 of the next calendar year.

"(C) STATEMENT TO PAYEE REQUIRED IN CASE OF TRANSACTIONS INVOLVING $10 OR MORE.—In the case of any transaction to which this paragraph applies which involves the payment of $10 or more of interest, a statement of the transaction may be provided to the payee of such interest in lieu of the statement required under subsection (c). Such

statement shall be provided during January of the year following the year in which such payment is made.

"(6) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

"(A) IN GENERAL.—Original issue discount on any obligation shall be reported—

"(i) as if paid at the time it is includible in gross income under section 1232A (except that for such purpose the amount reportable with respect to any subsequent holder shall be determined as if he were the original holder), and *Ante*, p. 496.

"(ii) if section 1232A does not apply to the obligation, at maturity (or, if earlier, on redemption).

In the case of any obligation not in registered form issued before January 1, 1983, clause (ii) and not clause (i) shall apply.

"(B) ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, the term 'original issue discount' has the meaning given to such term by section 1232(b)(1).".

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6041 (relating to information at source) is amended— 26 USC 6041.

(A) by striking out "6049(a)(1)" and inserting in lieu thereof "6049(a)", and

(B) by striking out "6045, 6049(a)(2), or 6049(a)(3)" and inserting in lieu thereof "or 6045".

(2) Subsection (b) of section 6652 (relating to failure to file certain information returns) is amended by adding "or" at the end of paragraph (1) and by striking out paragraphs (3) and (4). 95 Stat. 343.

(3) Paragraph (1) of section 6678 is amended by striking out "6049(a)(1)" and inserting in lieu thereof "6049(a)". 26 USC 6678.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid (or treated as paid) after December 31, 1982. 26 USC 6049 note.

SEC. 310. OBLIGATIONS REQUIRED TO BE REGISTERED.

(a) UNITED STATES OBLIGATIONS.—The Second Liberty Bond Act is amended by adding at the end thereof the following new section:

"SEC. 28. (a) Every registration-required obligation of the United States (or of any agency or instrumentality thereof) shall be in registered form. 31 USC 757c-5.

"(b) For purposes of this section—

"(1) Except as provided in paragraph (2), the term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public, or

"(B) has a maturity (at issue) of not more than 1 year.

"(2) The term 'registration-required obligation' shall not include any obligation if—

"(A) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(B) in the case of an obligation not in registered form—

"(i) interest on such obligation is payable only outside the United States and its possessions, and

"(ii) on the face of such obligation there is a statement that any United States person who holds such

obligation will be subject to limitations under the United States income tax laws.

"(c)(1) For purposes of subsection (a), a book entry obligation shall be treated as in registered form if the right to principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary of the Treasury.

"(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purpose of subsection (a) where there is a nominee or chain of nominees.".

(b) OTHER OBLIGATIONS.—

(1) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

95 Stat. 350.

"(j) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any registration-required obligation unless the obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public,

"(B) has a maturity (at issue) of not more than 1 year, or

"(C) is described in section 163(f)(2)(B).

"(3) SPECIAL RULES.—

"(A) BOOK ENTRIES PERMITTED.—For purposes of paragraph (1), a book entry obligation shall be treated as in registered form if the right to the principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary.

"(B) NOMINEES.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of paragraph (1) where there is a nominee or chain of nominees."

(2) DENIAL OF DEDUCTION FOR INTEREST IF OBLIGATION NOT IN REGISTERED FORM.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

Ante, p. 498.

"(f) DENIAL OF DEDUCTION FOR INTEREST ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for interest on any registration-required obligation unless such obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—For purposes of this section—

"(A) IN GENERAL.—The term 'registration-required obligation' means any obligation (including any obligation issued by a governmental entity) other than an obligation which—

"(i) is issued by a natural person,

"(ii) is not of a type offered to the public,

"(iii) has a maturity (at issue) of not more than 1 year, or

"(iv) is described in subparagraph (B).

"(B) CERTAIN OBLIGATIONS NOT INCLUDED.—An obligation is described in this subparagraph if—

"(i) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(ii) in the case of an obligation not in registered form—

"(I) interest on such obligation is payable only outside the United States and its possessions, and

"(II) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.

"(C) AUTHORITY TO INCLUDE OTHER OBLIGATIONS.—Clauses (ii) and (iii) of subparagraph (A), and subparagraph (B), shall not apply to any obligation if—

"(i) such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, and

"(ii) such obligation is issued after the date on which the regulations referred to in clause (i) take effect.

"(3) BOOK ENTRIES PERMITTED, ETC.—For purposes of this subsection, rules similar to the rules of section 103(j)(3) shall apply." 95 Stat. 350.

(3) DENIAL OF EARNINGS AND PROFITS ADJUSTMENT FOR INTEREST ON REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—Section 312 (relating to earnings and profits) is amended by adding at the end thereof the following new subsection: 26 USC 312.

"(m) NO ADJUSTMENT FOR INTEREST PAID ON CERTAIN REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—The earnings and profits of any corporation shall not be decreased by any interest with respect to which a deduction is not or would not be allowable by reason of section 163(f), unless at the time of issuance the issuer is a foreign corporation that is not a controlled foreign corporation (within the meaning of section 957), a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552) and the issuance did not have as a purpose the avoidance of section 163(f) of this subsection".

(4) EXCISE TAX ON ISSUERS OF REGISTRATION-REQUIRED OBLIGATIONS WHICH ARE NOT IN REGISTERED FORM.—

(A) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding after chapter 38 the following new chapter:

"CHAPTER 39—REGISTRATION-REQUIRED OBLIGATIONS

26 USC 4701.

"SEC. 4701. TAX ON ISSUER OF REGISTRATION-REQUIRED OBLIGATION NOT IN REGISTERED FORM.

"(a) IMPOSITION OF TAX.—In the case of any person who issues a registration-required obligation which is not in registered form, there is hereby imposed on such person on the issuance of such obligation a tax in an amount equal to the product of—

"(1) 1 percent of the principal amount of such obligation, multiplied by

"(2) the number of calendar years (or portions thereof) during the period beginning on the date of issuance of such obligation and ending on the date of maturity.

"(b) DEFINITIONS.—For purposes of this section—

"(1) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the same meaning as when used in section 163(f), except that such term shall not include any obligation required to be registered under section 103(j).

"(2) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f)."

(B) CONFORMING AMENDMENT.—The table of chapters for subtitle D is amended by inserting after chapter 38 the following:

"CHAPTER 39. Registration-required obligations."

(5) DENIAL OF DEDUCTION FOR LOSSES ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—Section 165 (as amended by this Act) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

Ante, p. 422.

"(j) DENIAL OF DEDUCTION FOR LOSSES ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for any loss sustained on any registration-required obligation unless such obligation is in registered form (or the issuance of such obligation was subject to tax under section 4701).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f).

"(3) EXCEPTIONS.—The Secretary may, by regulations, provide that this subsection and subsection (d) of section 1232 shall not apply with respect to obligations held by any person if—

"(A) such person holds such obligations in connection with a trade or business outside the United States,

"(B) such person holds such obligations as a broker dealer (registered under Federal or State law) for sale to customers in the ordinary course of his trade or business,

"(C) such person complies with reporting requirements with respect to ownership, transfers, and payments as the Secretary may require, or

"(D) such person promptly surrenders the obligation to the issuer for the issuance of a new obligation in registered form,

but only if such obligations are held under arrangements provided in regulations or otherwise which are designed to assure that such obligations are not delivered to any United States person other than a person described in subparagraph (A), (B), or (C)."

(6) DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection: 26 USC 1232.

"(d) DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f)."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended by striking out "if each obligation issued pursuant to the issue is in registered form and". 26 USC 103.

(2)(A) Paragraph (1) of section 103(h) (relating to certain obligations must be in registered form and not guaranteed or subsidized under an energy program) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(B) The subsection heading for subsection (h) of section 103 is amended by striking out "MUST BE IN REGISTERED FORM AND NOT" and inserting in lieu thereof "MUST NOT BE".

(3)(A) Subsection (j) of section 103A (relating to other requirements) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively. 26 USC 103A.

(B) Subparagraph (B) of section 103A(c)(2) (defining qualified mortgage issue) is amended by striking out "and (f) and paragraphs (2) and (3) of subsection (j)" and inserting in lieu thereof "(f), and (j)".

(C) Subparagraph (C) of section 103A(c)(2) is amended by striking out ", and paragraph (1) of subsection (j)".

(D) Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "subsection (j)(2)" and inserting in lieu thereof "subsection (j)(1)".

(4) Subparagraph (A) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "in registered form".

(d) EFFECTIVE DATES.— 26 USC 103 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 1982.

(2) LONG-TERM U.S. OBLIGATIONS.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act under the first section of the Second Liberty Bond Act.

31 USC 752.

(3) EXCEPTION FOR CERTAIN WARRANTS, ETC.—The amendments made by subsection (b) shall not apply to any obligations issued after December 31, 1982, on the exercise of a warrant or the conversion of a convertible obligation if such warrant or obligation was offered or sold outside the United States without registration under the Securities Act of 1933 and was issued before August 10, 1982. A rule similar to the rule of the preceding sentence shall also apply in the case of any regulations issued under section 163(f)(2)(C) of the Internal Revenue Code of 1954 (as added by this section) except that the date on which such regulations take effect shall be substituted for "August 10, 1982".

15 USC 77a.

SEC. 311. RETURNS OF BROKERS.

(a) GENERAL RULE.—

(1) RETURNS.—Section 6045 (relating to returns of brokers) is amended to read as follows:

26 USC 6045.

"SEC. 6045. RETURNS OF BROKERS.

"(a) GENERAL RULE.—Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

"(b) STATEMENTS TO BE FURNISHED TO CUSTOMERS.—Every person making a return under subsection (a) shall furnish to each customer whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the information shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

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

"(1) BROKER.—The term 'broker' includes—

"(A) a dealer,

"(B) a barter exchange, and

"(C) any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

"(2) CUSTOMER.—The term 'customer' means any person for whom the broker has transacted any business.

"(3) BARTER EXCHANGE.—The term 'barter exchange' means any organization of members providing property or services who jointly contract to trade or barter such property or services."

(2) PENALTY.—Paragraph (1) of section 6678 (relating to penalty for failure to furnish certain statements) is amended—

26 USC 6678.

(A) by inserting "6045(b)," after "6044(e),", and

(B) by inserting "6045(a)," after "6044(a)(1),".

(b) BARTER EXCHANGE TREATED AS THIRD-PARTY RECORDKEEPER.—Paragraph (3) of section 7609(a) (defining third-party recordkeeper) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph: 26 USC 7609.

"(G) any barter exchange (as defined in section 6045(c)(3))."

(c) EFFECTIVE DATES.— 26 USC 6045 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, except that—

(A) regulations relating to reporting by commodities and securities brokers shall be issued under section 6045 of the Internal Revenue Code of 1954 (as amended by this Act) within 6 months after the date of the enactment of this Act, and

(B) such regulations shall not apply to transactions occurring before January 1, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to summonses served after December 31, 1982. 26 USC 7609 note.

SEC. 312. INFORMATION REPORTING REQUIREMENTS FOR PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.

(a) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6041 the following new section:

SEC. 6041A. RETURNS REGARDING PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES. 26 USC 6041A.

"(a) RETURNS REGARDING REMUNERATION FOR SERVICES.—If—

"(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and

"(2) the aggregate of such remuneration paid to such person during such calendar year is $600 or more,

then the service-recipient shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the recipient of such payments. For purposes of the preceding sentence, the term 'service-recipient' means the person for whom the service is performed. "Service-recipient."

"(b) DIRECT SALES OF $5,000 OR MORE.—

"(1) IN GENERAL.—If—

"(A) any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, and

"(B) the aggregate amount of the sales to such buyer during such calendar year is $5,000 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the name and address of the buyer to whom such sales are made.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) BUY-SELL BASIS.—A transaction is on a buy-sell basis if the buyer performing the services is entitled to retain part or all of the difference between the price at which the buyer purchases the product and the price at which the buyer sells the product as part or all of the buyer's remuneration for the services, and

"(B) DEPOSIT-COMMISSION BASIS.—A transaction is on a deposit-commission basis if the buyer performing the services is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the buyer's remuneration for the services.

"(c) CERTAIN SERVICES NOT INCLUDED.—No return shall be required under subsection (a) or (b) if a statement with respect to the services is required to be furnished under section 6051, 6052, or 6053.

"(d) APPLICATIONS TO GOVERNMENTAL UNITS.—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of any payment by a governmental entity or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every person required to make a return under subsection (a) or (b) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) in the case of subsection (a), the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(f) RECIPIENT TO FURNISH NAME, ADDRESS, AND IDENTIFICATION NUMBER; INCLUSION ON RETURN.—

"(1) FURNISHING OF INFORMATION.—Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

"(2) INCLUSION ON RETURN.—The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates."

95 Stat. 344. (b) PENALTY FOR FAILURE TO FILE STATEMENT.—Section 6678(1) (relating to failure to file statement) is amended—

(1) by inserting "6041A(e)," after "6041(d),", and

(2) by inserting "6041A(a) or (b)," after "6041(a),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and sales made after December 31, 1982. 26 USC 6041A note.

SEC. 313. STATE AND LOCAL INCOME TAX REFUNDS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050E. STATE AND LOCAL INCOME TAX REFUNDS. 26 USC 6050E.

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more shall make a return according to forms or regulations prescribed by the Secretary setting forth the aggregate amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom such payment, credit, or offset was made.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the aggregate amount shown on the return of refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was made.

"(c) PERSON DEFINED.—For purposes of this section, the term 'person' means the officer or employee having control of the payment of the refunds (or the allowance of the credits or offsets) or the person appropriately designated for purposes of this section."

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050E. State and local income tax refunds."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of refunds, and credits and offsets made, after December 31, 1982. 26 USC 6050E note.

SEC. 314. EMPLOYER REPORTING WITH RESPECT TO TIPS.

(a) IN GENERAL.—Section 6053 (relating to reporting of tips) is amended by adding at the end thereof the following new subsection: 26 USC 6053.

"(c) REPORTING REQUIREMENTS RELATING TO CERTAIN LARGE FOOD OR BEVERAGE ESTABLISHMENTS.—

"(1) REPORT TO SECRETARY.—In the case of a large food or beverage establishment, each employer shall report to the Secretary, at such time and manner as the Secretary may prescribe by regulation, the following information with respect to each calendar year:

"(A) The gross receipts of such establishment from the provision of food and beverages (other than nonallocable receipts).

"(B) The aggregate amount of charge receipts (other than nonallocable receipts).

"(C) The aggregate amount of charged tips shown on such charge receipts.

"(D) The sum of—

"(i) the aggregate amount reported by employees to the employer under subsection (a), plus

"(ii) the amount the employer is required to report under section 6051 with respect to service charges of less than 10 percent.

26 USC 6051.

"(E) With respect to each employee, the amount allocated to such employee under paragraph (3).

"(2) FURNISHING OF STATEMENT TO EMPLOYEES.—Each employer described in paragraph (1) shall furnish, in such manner as the Secretary may prescribe by regulations, to each employee of the large food or beverage establishment a written statement for each calendar year showing the following information:

"(A) The name and address of such employer.

"(B) The name of the employee.

"(C) The amount allocated to the employee under paragraph (3) for all payroll periods ending within the calendar year.

Any statement under this paragraph shall be furnished to the employee during January of the calendar year following the calendar year for which such statement is made.

"(3) EMPLOYEE ALLOCATION OF 8 PERCENT OF GROSS RECEIPTS.—

"(A) IN GENERAL.—For purposes of paragraphs (1)(E) and (2)(C), the employer of a large food or beverage establishment shall allocate (as tips for purposes of the requirements of this subsection) among employees performing services during any payroll period who customarily receive tip income an amount equal to the excess of—

"(i) 8 percent of the gross receipts (other than nonallocable receipts) of such establishment for the payroll period, over

"(ii) the aggregate amount reported by such employees to the employer under subsection (a) for such period.

"(B) METHOD OF ALLOCATION.—The employer shall allocate the amount under subparagraph (A)—

"(i) on the basis of a good faith agreement by the employer and the employees, or

"(ii) in the absence of an agreement under clause (i), in the manner determined under regulations prescribed by the Secretary.

"(C) THE SECRETARY MAY LOWER THE PERCENTAGE REQUIRED TO BE ALLOCATED.—The Secretary may reduce (but not below 5 percent) the percentage of gross receipts required to be allocated under subparagraph (A) where he determines that the percentage of gross receipts constituting tips is less than 8 percent.

"(4) LARGE FOOD OR BEVERAGE ESTABLISHMENT.—For purposes of this subsection, the term 'large food or beverage establishment' means any trade or business (or portion thereof)—

"(A) which provides food or beverages,

"(B) with respect to which the tipping of employees serving food or beverages by customers is customary, and

"(C) which normally employed more than 10 employees on a typical business day during the preceding calendar year.

For purposes of subparagraph (C), rules similar to the rules of subsections (a) and (b) of section 52 shall apply under regulations prescribed by the Secretary.

"(5) EMPLOYER NOT TO BE LIABLE FOR WRONG ALLOCATIONS.—The employer shall not be liable to any person if any amount is improperly allocated under paragraph (3)(B) if such allocation is done in accordance with the regulations prescribed under paragraph (3)(B).

"(6) NONALLOCABLE RECEIPTS DEFINED.—For purposes of this subsection, the term 'nonallocable receipts' means receipts which are allocable to—

"(A) carryout sales, or

"(B) services with respect to which a service charge of 10 percent or more is added.

"(7) APPLICATION TO NEW BUSINESSES.—The Secretary shall prescribe regulations for the application of this subsection to new businesses."

(b) PENALTY FOR FAILURE TO FURNISH STATEMENT.—Subparagraph (D) of section 6678(3) is amended by striking out "section 6053(b)" and inserting in lieu thereof "subsection (b) or (c) of section 6053(c)." 95 Stat. 343.

(c) STUDY OF TIP COMPLIANCE.—The Secretary of the Treasury or his delegate shall submit before January 1, 1987, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report with respect to tip compliance in the food and beverage service industry. Such study shall include, but not be limited to, an analysis of tipping patterns, tip-sharing arrangements, and tip compliance patterns. Report to congressional committees. 26 USC 6053 note.

(d) CONFORMING AMENDMENT.—The last sentence of section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by inserting ", records necessary to comply with section 6053(c)," after "charge receipts". 26 USC 6001.

(e) EFFECTIVE DATES.— 26 USC 6053 note.

(1) IN GENERAL.—The amendments made by this section shall apply to calendar years beginning after December 31, 1982.

(2) SPECIAL RULE FOR 1983.—For purposes of section 6053(c) of the Internal Revenue Code of 1954, in the case of payroll periods ending before April 1, 1983, an employer must only report with respect to such periods—

(A) amounts described in subparagraphs (A), (B), (C), and (D) of section 6053(c)(1) of such Code, and

(B) the name, and identification number, wages paid to, and tips reported by, each tipped employee.

PART II—PROVISIONS TO IMPROVE REPORTING GENERALLY

SEC. 315. INCREASED PENALTIES FOR FAILURE TO FILE INFORMATION RETURN OR TO FURNISH STATEMENT.

(a) IN GENERAL.—Subsection (a) of section 6652 (relating to failure to file certain information returns, etc.) is amended to read as follows: 26 USC 6652.

"(a) RETURNS RELATING TO INFORMATION AT SOURCE, PAYMENTS OF DIVIDENDS, ETC., AND CERTAIN TRANSFERS OF STOCK.—

"(1) IN GENERAL.—In the case of each failure—

"(A) to file a statement of the amount of payments to another person required by—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

Ante, p. 592. "(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

Ante, pp. 587, 588. "(vi) section 6042(e), 6044(f), 6049(e), or 6051(d) (relating to information returns with respect to income tax withheld), or

"(B) to make a return required by—

Ante, p. 601. "(i) subsection (a) or (b) of section 6041A (relating to returns of direct sellers),

Ante, p. 600. "(ii) section 6045 (relating to returns of brokers),

"(iii) section 6052(a) (relating to reporting payment of wages in the form of group term life insurance), or

"(iv) section 6053(c)(1) (relating to reporting with respect to certain tips),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax), by the person failing to file a statement referred to in subparagraph (A) or failing to make a return referred to in subparagraph (B), $50 for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $50,000.

"(2) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which paragraph (1) applies are due to intentional disregard of the filing requirement, then with respect to such failures—

"(A) the penalty imposed under paragraph (1) shall not be less than an amount equal to—

"(i) in the case of a return not described in clauses (ii) and (iii), 10 percent of the aggregate amount of the items required to be reported,

"(ii) in the case of a return required to be filed by section 6045, 5 percent of the gross proceeds required to be reported, and

"(iii) in the case of a return required to be filed by section 6041A(b), $100 for each such failure, and

"(B) the $50,000 limitation under paragraph (1) shall not apply."

(b) INCREASE IN ADDITION TO TAX FOR FAILURE TO FILE CERTAIN RETURNS OR STATEMENTS IN CONNECTION WITH PLANS OF DEFERRED COMPENSATION.—Subsection (f) of section 6652 (relating to information required in connection with certain plans of deferred compensation) is amended— 26 USC 6652.

(1) by striking out "$10" and inserting in lieu thereof "$25", and

(2) by striking out "$5,000" and inserting in lieu thereof "$15,000".

(c) INCREASE IN CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN STATEMENTS.—Section 6678 (relating to failure to furnish certain statements) is amended— 26 USC 6678.

(1) by striking out "$10" and inserting in lieu thereof "$50", and

(2) by striking out "$25,000" and inserting in lieu thereof "$50,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns or statements the due date for the filing of which (without regard to extensions) is after December 31, 1982. 26 USC 6652 note.

SEC. 316. INCREASE IN CIVIL PENALTY ON FAILURE TO SUPPLY IDENTIFYING NUMBERS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended to read as follows: 26 USC 6676.

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—If any person who is required by regulations prescribed under section 6109—

"(A) to include his taxpayer identification number in any return, statement, or other document,

"(B) to furnish his taxpayer identification number to another person, or

"(C) to include in any return, statement, or other document made with respect to another person the taxpayer identification number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of $5 for each such failure described in subparagraph (A) and $50 for each such failure described in subparagraph (B) or (C), except that the total amount imposed on such person for all such failures during any calendar year shall not exceed $50,000.

"(2) TAXPAYER IDENTIFICATION NUMBER DEFINED.—The term 'taxpayer identification number' means the identifying number assigned to a person under section 6109."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns the due date for the filing of which (without regard to extensions) is after December 31, 1982. 26 USC 6676 note.

SEC. 317. EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.

(a) IN GENERAL.—Section 3402 (relating to withholding at source) is amended by adding at the end thereof the following new subsection: 26 USC 3402.

"(s) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.—

"(1) IN GENERAL.—If, in the case of any backup withholding payment—

"(A) the payee fails to furnish his taxpayer identification number to the payor, or

"(B) the Secretary notifies the payor that the number furnished by the payee is incorrect,

then the payor shall deduct and withhold from such payment a tax equal to 15 percent of such payment.

"(2) PERIOD FOR WHICH WITHHOLDING IS IN EFFECT.—

"(A) FAILURE TO FURNISH NUMBER.—In the case of any failure described in subparagraph (A) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period during which the taxpayer identification number has not been furnished.

"(B) NOTIFICATION OF INCORRECT NUMBER.—In any case where there is a notification described in subparagraph (B) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made—

"(i) after the close of the 15th day after the day on which the payor was so notified, and

"(ii) before the payee furnishes another taxpayer identification number.

"(C) 15-DAY GRACE PERIODS.—

"(i) AFTER CORRECTION.—Unless the payor otherwise elects, paragraph (1) shall also apply to any backup withholding payment made after the close of the period described in subparagraph (A) or (B) (as the case may be) and before the 16th day after the close of such period.

"(ii) AFTER NOTIFICATION.—If the payor so elects, paragraph (1) shall also apply to any backup withholding payment made during the 15-day period described in clause (i) of subparagraph (B).

"(3) BACKUP WITHHOLDING PAYMENTS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'backup withholding payment' means any payment of a kind, and to a payee, required to be shown on a return required under—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6041A(a) (relating to returns regarding payments to nonemployees),

"(iii) section 6042(a) (relating to payments of dividends),

"(iv) section 6044 (relating to returns regarding patronage dividends) but only to the extent of payments of money,

Ante, p. 600. "(v) section 6045 (relating to returns of brokers),

Ante, p. 592. "(vi) section 6049(a) (relating to payments of interest), or

"(vii) section 6050A (relating to reporting requirements of certain fishing boat operators), but only to the extent of payments of the proceeds of the catch.

"(B) SPECIAL RULE.—For purposes of this subsection, the determination of whether any payment is of a kind required to be shown on a return described in subparagraph (A) shall be made without regard to any minimum amount which must be paid before a return is required.

"(4) PAYMENTS MUST AGGREGATE $600 BEFORE WITHHOLDING REQUIRED FROM PAYMENTS DESCRIBED IN SECTION 6041(a) OR 6041A.—In the case of any payment which is of a kind required to be shown on a return required under section 6041(a) or 6041A(a) and which is made during any calendar year, no amount shall be deducted and withheld with respect to such payment unless—

Ante, p. 601.

"(A) the aggregate amount of such payment and all previous such payments to the payee involved during such calendar year equals or exceeds $600,

"(B) the payor was required under section 6041(a) or 6041A(a) to file a return for the preceding calendar year with respect to payments to the payee involved, or

"(C) during the preceding calendar year the payor made backup withholding payments to the payee with respect to which amounts were required to be deducted and withheld under paragraph (1).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) OBVIOUSLY INCORRECT NUMBER.—A payee shall be treated as failing to furnish his taxpayer identification number if the number furnished does not contain the proper number of digits.

"(B) PAYEE FURNISHES 2 INCORRECT NUMBERS.—If the payee furnishes a payor 2 incorrect numbers, the payor shall, after receiving notice of the second incorrect number, treat the payee as not having furnished another taxpayer identification number under paragraph (2)(B)(ii) until the day on which the payor receives notification from the Secretary that a correct taxpayer identification number has been furnished.

"(C) EXCEPTION FOR PAYMENTS TO CERTAIN PAYEES.—Paragraph (1) shall not apply to any payment made to—

"(i) the United States (as defined in section 3455(a)(3)), *Ante*, p. 583.

"(ii) any State (as defined in section 3455(a)(2)),

"(iii) an organization which is exempt from taxation under section 501(a),

"(iv) any foreign government (as defined in section 3455(a)(4)) or international organization (as defined in section 3455(a)(5)), or

"(v) any other person specified in regulations.

"(D) TAXPAYER IDENTIFICATION NUMBER.—The term 'taxpayer identification number' means the identifying number assigned to a person under section 6109.

"(E) AMOUNTS FOR WHICH WITHHOLDING OTHERWISE REQUIRED.—No tax shall be deducted or withheld under this subsection with respect to any amount for which withholding is otherwise required by this title.

"(F) EXEMPTION WHILE WAITING FOR NUMBER.—The Secretary shall prescribe regulations for exemptions from the tax imposed by paragraph (1) during periods during which a person is waiting for receipt of a taxpayer identification number.

"(G) NOMINEES.—In the case of a backup withholding payment described in clause (i) or (v) of paragraph (3)(A) to a nominee, in the manner provided in regulations, both the nominee and the ultimate payee shall be treated as the payee.

"(H) REQUIREMENT OF NOTICE TO PAYEE.—Whenever the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect, the Secretary shall at the same time furnish a

copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

"(I) REQUIREMENT OF NOTICE TO SECRETARY.—If the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect and such payee subsequently furnishes another taxpayer identification number to the payor, the payor shall promptly notify the Secretary of the other taxpayer identification number so furnished.

"(J) COORDINATION WITH OTHER SECTIONS.—For purposes of section 31, this chapter (other than subsection (n) of this section), and so much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this subsection shall be treated as if they were wages paid by an employer to an employee."

26 USC 3402 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made after December 31, 1983.

SEC. 318. MINIMUM PENALTY FOR EXTENDED FAILURE TO FILE.

26 USC 6651.

(a) IN GENERAL.—Subsection (a) of section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new sentence:

"In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of $100 or 100 percent of the amount required to be shown as tax on such return."

(b) CONFORMING AMENDMENTS.—Section 6651(c)(1) (relating to additions under more than one paragraph) is amended—

(1) by adding at the end of subparagraph (A) the following new sentence: "In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.", and

(2) by inserting "(determined without regard to the last sentence of such subsection)" after "paragraph (1) of subsection (a)" in subparagraph (B).

26 USC 6651 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

SEC. 319. INFORMATION RETURNS.

26 USC 6011.

Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC TAPE, ETC.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary. In prescribing such regulations, the Secretary shall take into account

(among other relevant factors) the ability of the taxpayer to comply at a reasonable cost with such a filing requirement."

Subtitle C—Abusive Tax Shelters, Etc.; Substantial Underpayments; False Documents; Frivolous Returns

PART I—ABUSIVE TAX SHELTERS, ETC.

SEC. 320. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6700. PROMOTING ABUSIVE TAX SHELTERS, ETC. 26 USC 6700.

"(a) IMPOSITION OF PENALTY.—Any person who—

"(1)(A) organizes (or assists in the organization of)—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement, or

"(B) participates in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

"(2) makes or furnishes (in connection with such organization or sale)—

"(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or

"(B) a gross valuation overstatement as to any material matter,

shall pay a penalty equal to the greater of $1,000 or 10 percent of the gross income derived or to be derived by such person from such activity.

"(b) RULES RELATING TO PENALTY FOR GROSS VALUATION OVERSTATEMENTS.—

"(1) GROSS VALUATION OVERSTATEMENT DEFINED.—For purposes of this section, the term 'gross valuation overstatement' means any statement as to the value of any property or services if—

"(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

"(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

"(2) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

"(c) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6700. Promoting abusive tax shelters, etc."

26 USC 6700 note.

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

SEC. 321. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7408 as section 7409 and by inserting after section 7407 the following new section:

26 USC 7409.

26 USC 7408.

"SEC. 7408. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.) may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in conduct subject to penalty under section 6700. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.), and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under section 6700.

"(c) CITIZENS AND RESIDENTS OUTSIDE THE UNITED STATES.—If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7408. Action to enjoin promoters of abusive tax shelters, etc.
"Sec. 7409. Cross references."

26 USC 7408 note.

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

SEC. 322. PROCEDURAL RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6703. RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702. 26 USC 6703.

"(a) BURDEN OF PROOF.—In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

"(c) EXTENSION OF PERIOD OF COLLECTION WHERE PERSON PAYS 15 PERCENT OF PENALTY.—

"(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under section 6700, 6701, or 6702 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(2) PERSON MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under section 6700, 6701, or 6702 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6703. Rules applicable to penalties under sections 6700, 6701, and 6702."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act. 26 USC 6703 note.

PART II—SUBSTANTIAL UNDERPAYMENT; FALSE DOCUMENTS; FRIVOLOUS RETURNS; ETC.

SEC. 323. PENALTY FOR SUBSTANTIAL UNDERSTATEMENT.

(a) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by redesignating section 6661 as section 6662 and by inserting after section 6660 the following new section: 26 USC 6662.

26 USC 6661.

"SEC. 6661. SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

"(a) ADDITION TO TAX.—If there is a substantial understatement of income tax for any taxable year, there shall be added to the tax an amount equal to 10 percent of the amount of any underpayment attributable to such understatement.

"(b) DEFINITION AND SPECIAL RULE.—

"(1) SUBSTANTIAL UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, or

"(ii) $5,000.

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting '$10,000' for '$5,000'.

"(2) UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax imposed which is shown on the return.

"(B) REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) SPECIAL RULES IN CASES INVOLVING TAX SHELTERS.—

"(i) IN GENERAL.—In the case of any item attributable to a tax shelter—

"(I) subparagraph (B)(ii) shall not apply, and

"(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

"(ii) TAX SHELTER.—For purposes of clause (i), the term 'tax shelter' means—

"(I) a partnership or other entity,

"(II) any investment plan or arrangement, or

"(III) any other plan or arrangement,

if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

"(3) COORDINATION WITH PENALTY IMPOSED BY SECTION 6659.—For purposes of determining the amount of the addition to tax assessed under subsection (a), there shall not be taken into account that portion of the substantial understatement on which a penalty is imposed under section 6659 (relating to addition to tax in the case of valuation overstatements). 95 Stat. 341.

"(c) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith."

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6661. Substantial understatement of liability.
"Sec. 6662. Applicable rules."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date (determined without regard to extension) for filing of which is after December 31, 1982. 26 USC 6661 note.

SEC. 324. PENALTIES FOR DOCUMENTS UNDERSTATING TAX LIABILITY.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6700 the following new section:

"SEC. 6701. PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY. 26 USC 6701.

"(a) IMPOSITION OF PENALTY.—Any person—

"(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document in connection with any matter arising under the internal revenue laws,

"(2) who knows that such portion will be used in connection with any material matter arising under the internal revenue laws, and

"(3) who knows that such portion (if so used) will result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be $1,000.

"(2) CORPORATIONS.—If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be $10,000.

"(3) ONLY 1 PENALTY PER PERSON PER PERIOD.—If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

"(c) ACTIVITIES OF SUBORDINATES.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'procures' includes—

"(A) ordering (or otherwise causing) a subordinate to do an act, and

"(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

"(2) SUBORDINATE.—For purposes of paragraph (1), the term 'subordinate' means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

"(d) TAXPAYER NOT REQUIRED TO HAVE KNOWLEDGE.—Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

"(e) CERTAIN ACTIONS NOT TREATED AS AID OR ASSISTANCE.—For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

"(f) PENALTY IN ADDITION TO OTHER PENALTIES.—

"(1) IN GENERAL.—Except as provided by paragraph (2), the penalty imposed by this section shall be in addition to any other penalty provided by law.

"(2) COORDINATION WITH RETURN PREPARER PENALTIES.—No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6700 the following new item:

"Sec. 6701. Penalties for aiding and abetting understatement of tax liability."

26 USC 6701 note.

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

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 325. FRAUD PENALTY.

26 USC 6653.

(a) GENERAL RULE.—Subsection (b) of section 6653 (relating to fraud penalty) is amended to read as follows:

"(b) FRAUD.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

"(2) ADDITIONAL AMOUNT FOR PORTION ATTRIBUTABLE TO FRAUD.—There shall be added to the tax (in addition to the amount determined under paragraph (1)) an amount equal to 50 percent of the interest payable under section 6601—

"(A) with respect to the portion of the underpayment described in paragraph (1) which is attributable to fraud, and

"(B) for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

"(3) NO NEGLIGENCE ADDITION WHEN THERE IS ADDITION FOR FRAUD.—The addition to tax under this subsection shall be in lieu of any amount determined under subsection (a).

"(4) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return under section 6013, this subsection shall not apply with respect to the tax of the spouse unless some part of the underpayment is due to the fraud of such spouse."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxes the last day prescribed by law for payment of which (determined without regard to any extension) is after the date of enactment of this Act. 26 USC 6653 note.

SEC. 326. PENALTY FOR FRIVOLOUS RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6701 the following new section:

"SEC. 6702. FRIVOLOUS INCOME TAX RETURN. 26 USC 6702.

"(a) CIVIL PENALTY.—If—

"(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1) is due to—

"(A) a position which is frivolous, or

"(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws,

then such individual shall pay a penalty of $500.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6701 the following new item:

"Sec. 6702. Frivolous income tax return."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to documents filed after the date of the enactment of this Act. 26 USC 6702 note.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 327. RELIEF FROM CRIMINAL PENALTY FOR FAILURE TO FILE ESTIMATED TAX WHERE TAXPAYER FALLS WITHIN STATUTORY EXCEPTIONS.

Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by adding at the end thereof the following new sentence: "In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure." 26 USC 7203.

SEC. 328. ADJUSTMENTS TO ESTIMATED TAX PROVISIONS.

(a) WAIVER OF PENALTY WHERE INDIVIDUAL DID NOT HAVE TAX LIABILITIES FOR PRECEDING TAXABLE YEAR.—

95 Stat. 346.

(1) Section 6654 (relating to failure by individual to pay estimated tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXCEPTION WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.—No addition to tax shall be imposed under subsection (a) for any taxable year if—

"(1) the individual did not have any liability for tax for the preceding taxable year,

"(2) the preceding taxable year was a taxable year of 12 months, and

"(3) the individual was a citizen or resident of the United States throughout the preceding taxable year."

(2) Subsection (g) of section 6654 is amended by striking out "and (f)" and inserting in lieu thereof "(f), and (h)".

(b) ELIMINATION OF REQUIREMENTS TO FILE DECLARATIONS OF ESTIMATED TAX.—

95 Stat. 345.

(1) Section 6015 (relating to declaration of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(k) TERMINATION.—No declaration shall be required under this section for any taxable year beginning after December 31, 1982."

26 USC 6073.

(2) Section 6073 (relating to time for filing declarations of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1982."

26 USC 6153.

(3) Section 6153 (relating to installment payments of estimated income tax by individuals) is amended by striking out subsection (g) and inserting in lieu thereof the following:

"(g) SPECIAL RULES FOR TAXABLE YEARS BEGINNING AFTER 1982.—In the case of taxable years beginning after 1982—

"(1) this section shall be applied as if the requirements of sections 6015 and 6073 remained in effect, and

"(2) the amount of the estimated tax taken into account under this section shall be determined under rules similar to the rules of subsections (b) and (d) of section 6654."

26 USC 6015 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 329. INCREASES IN CERTAIN CRIMINAL FINES.

26 USC 7201.

(a) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 (relating to attempt to evade or defeat tax) is amended by striking out "$10,000" and inserting in lieu thereof "$100,000 ($500,000 in the case of a corporation)".

26 USC 7203.

(b) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000 ($100,000 in the case of a corporation)".

26 USC 7206.

(c) FRAUD AND FALSE STATEMENTS.—Section 7206 (relating to fraud and false statements) is amended by striking out "$5,000" and inserting in lieu thereof "$100,000 ($500,000 in the case of a corporation)".

(d) FRAUDULENT RETURNS, STATEMENTS, OR OTHER DOCUMENTS.—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$10,000 ($50,000 in the case of a corporation)". 26 USC 7207.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed after the date of the enactment of this Act. 26 USC 7201 note.

SEC. 330. SPECIAL RULES WITH RESPECT TO CERTAIN CASH.

(a) IN GENERAL.—Subchapter A of chapter 70 (relating to jeopardy) is amended by adding at the end thereof the following new part:

"PART III—SPECIAL RULES WITH RESPECT TO CERTAIN CASH

"Sec. 6867. Presumptions where owner of large amount of cash is not identified.

"SEC. 6867. PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF CASH IS NOT IDENTIFIED. 26 USC 6867.

"(a) GENERAL RULE.—If the individual who is in physical possession of cash in excess of $10,000 does not claim such cash—

"(1) as his, or

"(2) as belonging to another person whose identity the Secretary can readily ascertain and who acknowledges ownership of such cash,

then, for purposes of sections 6851 and 6861, it shall be presumed that such cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

"(b) RULES FOR ASSESSING.—In the case of any assessment resulting from the application of subsection (a)—

"(1) the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs,

"(2) such income shall be treated as taxable at a 50-percent rate, and

"(3) except as provided in subsection (c), the possessor of the cash shall be treated (solely with respect to such cash) as the taxpayer for purposes of chapters 63 and 64 and section 7429(a)(1).

"(c) EFFECT OF LATER SUBSTITUTION OF TRUE OWNER.—If, after an assessment resulting from the application of subsection (a), such assessment is abated and replaced by an assessment against the owner of the cash, such later assessment shall be treated for purposes of all laws relating to lien, levy and collection as relating back to the date of the original assessment.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CASH.—The term 'cash' includes any cash equivalent.

"(2) CASH EQUIVALENT.—The term 'cash equivalent' means—

"(A) foreign currency,

"(B) any bearer obligation, and

"(C) any medium of exchange which—

"(i) is of a type which has been frequently used in illegal activities, and

"(ii) is specified as a cash equivalent for purposes of this part in regulations prescribed by the Secretary.

"(3) VALUE OF CASH EQUIVALENT.—Any cash equivalent shall be taken into account—

"(A) in the case of a bearer obligation, at its face amount, and

"(B) in the case of any other cash equivalent, at its fair market value."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part III. Special rules with respect to certain cash."

26 USC 6867 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the day after the date of the enactment of this Act.

Subtitle D—Administrative Summons

SEC. 331. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

26 USC 7609.

(a) PROCEEDING TO QUASH.—Paragraph (2) of section 7609(b) (relating to right to intervene; right to stay compliance) is amended to read as follows:

"(2) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

"(B) REQUIREMENT OF NOTICE TO PERSON SUMMONED AND TO SECRETARY.—If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

"(C) INTERVENTION; ETC.—Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding)."

(b) RESTRICTION ON EXAMINATION.—Subsection (d) of section 7609 (relating to restriction on examination of records) is amended to read as follows:

"(d) RESTRICTION ON EXAMINATION OF RECORDS.—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

"(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

"(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of

such proceeding or with the consent of the person beginning the proceeding to quash."

(c) JURISDICTION.—Subsection (h) of section 7609 (relating to jurisdiction of district court) is amended to read as follows: 26 USC 7609.

"(h) JURISDICTION OF DISTRICT COURT; ETC.—

"(1) JURISDICTION.—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

"(2) SPECIAL RULE FOR PROCEEDINGS UNDER SUBSECTIONS (f) AND (g).—The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

"(3) PRIORITY.—Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, takes precedence on the docket over all other cases and shall be assigned for hearing and decided at the earliest practicable date."

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 7609(a) is amended—

(A) by striking out "14th day" and inserting in lieu thereof "23rd day", and

(B) by striking out the last sentence and inserting in lieu thereof the following: "Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons."

(2) The subsection heading for subsection (b) of section 7609 is amended to read as follows:

"(b) RIGHT TO INTERVENE; RIGHT TO PROCEEDING TO QUASH.—".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after December 31, 1982. 26 USC 7609 note.

SEC. 332. DUTY OF THIRD-PARTY RECORDKEEPER.

(a) GENERAL RULE.—Section 7609 (relating to special procedures for third-party summonses) is amended by adding at the end thereof the following new subsection: *Supra.*

"(i) DUTY OF THIRD-PARTY RECORDKEEPER.—

"(1) RECORDKEEPER MUST ASSEMBLE RECORDS AND BE PREPARED TO PRODUCE RECORDS.—On receipt of a summons described in subsection (c), the third-party recordkeeper shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

"(2) SECRETARY MAY GIVE RECORDKEEPER CERTIFICATE.—The Secretary may issue a certificate to the third-party recordkeeper that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

"(3) PROTECTION FOR RECORDKEEPER WHO DISCLOSES.—Any third-party recordkeeper, or agent or employee thereof, making a disclosure of records pursuant to this section in good-faith

reliance on the certificate of the Secrtetary or an order of a court requiring production of records shall not be liable to any customer or other person for such disclosure."

26 USC 7609 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses served after December 31, 1982.

SEC. 333. LIMITATION ON USE OF ADMINISTRATIVE SUMMONS.

26 USC 7602.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses) is amended by striking out "For the purpose" and inserting in lieu thereof "(a) AUTHORITY TO SUMMON, ETC.—For the purpose" and by adding at the end thereof the following new subsections:

"(b) PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

"(c) NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.—

"(1) LIMITATION OF AUTHORITY.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

"(2) JUSTICE DEPARTMENT REFERRAL IN EFFECT.—For purposes of this subsection—

"(A) IN GENERAL.—A Justice Department referral is in effect with respect to any person if—

"(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

"(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

"(B) TERMINATION.—A Justice Department referral shall cease to be in effect with respect to a person when—

"(i) the Attorney General notifies the Secretary, in writing, that—

"(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

"(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

"(III) he will discontinue such a grand jury investigation,

"(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

"(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforce-

ment of the internal revenue laws relating to the request described in subparagraph (A)(ii).

"(3) TAXABLE YEARS, ETC., TREATED SEPARATELY.—For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the day after the date of the enactment of this Act. 26 USC 7602 note.

Subtitle E—Withholding on Pensions and Other Retirement Income

SEC. 334. WITHHOLDING ON PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

(a) IN GENERAL.—Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new section:

"SEC. 3405. SPECIAL RULES FOR PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME. 26 USC 3405.

"(a) PENSIONS, ANNUITIES, ETC.—

"(1) WITHHOLDING AS IF PAYMENT WERE WAGES.—The payor of any periodic payment (as defined in subsection (d)(2)) shall withhold from such payment the amount which would be required to be withheld from such payment if such payment were a payment of wages by an employer to an employee for the appropriate payroll period.

"(2) ELECTION OF NO WITHHOLDING.—An individual may elect to have paragraph (1) not apply with respect to periodic payments made to such individual. Such an election shall remain in effect until revoked by such individual.

"(3) WHEN ELECTION TAKES EFFECT.—Any election under this subsection (and any revocation of such an election) shall take effect as provided by subsection (f)(3) of section 3402 for withholding exemption certificates.

"(4) AMOUNT WITHHELD WHERE NO WITHHOLDING EXEMPTION CERTIFICATE IN EFFECT.—In the case of any payment with respect to which a withholding exemption certificate is not in effect, the amount withheld under paragraph (1) shall be determined by treating the payee as a married individual claiming 3 withholding exemptions.

"(b) NONPERIODIC DISTRIBUTION.—

"(1) WITHHOLDING.—The payor of any nonperiodic distribution (as defined in subsection (d)(3)) shall withhold from such distribution the amount determined under paragraph (2).

"(2) AMOUNT OF WITHHOLDING.—

"(A) DISTRIBUTIONS WHICH ARE NOT QUALIFIED TOTAL DISTRIBUTIONS.—In the case of any nonperiodic distribution which is not a qualified total distribution, the amount withheld under paragraph (1) shall be the amount determined by multiplying such distribution by 10 percent.

"(B) QUALIFIED TOTAL DISTRIBUTIONS.—In the case of any nonperiodic distribution which is a qualified total distribution, the amount withheld under paragraph (1) shall be

determined under tables (or other computational procedures) prescribed by the Secretary which are based on the amount of tax which would be imposed on such distribution under section 402(e) if the recipient elected to treat such distribution as a lump-sum distribution (within the meaning of section 402(e)(4)(A)).

"(C) SPECIAL RULE FOR DISTRIBUTIONS BY REASONS OF DEATH.—In the case of any distribution described in subparagraph (B) from or under any plan or contract described in section 401(a), 403(a), or 403(b) which is made by reason of a participant's death, the Secretary, in prescribing tables or procedures under paragraph (1), shall take into account the exclusion from gross income provided by section 101(b) (whether or not allowable).

"(3) ELECTION OF NO WITHHOLDING.—

"(A) IN GENERAL.—An individual may elect not to have paragraph (1) apply with respect to any nonperiodic distribution.

"(B) SCOPE OF ELECTION.—An election under subparagraph (A)—

"(i) except as provided in clause (ii), shall be on a distribution-by-distribution basis, or

"(ii) to the extent provided in regulations, may apply to subsequent nonperiodic distributions made by the payor to the payee under the same arrangement.

"(c) LIABILITY FOR WITHHOLDING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the payor of a designated distribution (as defined in subsection (d)(1)) shall withhold, and be liable for, payment of the tax required to be withheld under this section.

"(2) PLAN ADMINISTRATOR LIABLE IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of any plan to which this paragraph applies, paragraph (1) shall not apply and the plan administrator shall withhold, and be liable for, payment of the tax unless the plan administrator—

"(i) directs the payor to withhold such tax, and

"(ii) provides the payor with such information as the Secretary may require by regulations.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any plan described in, or which at any time has been determined to be described in—

"(i) section 401(a),

"(ii) section 403(a), or

26 USC 46 note. "(iii) section 301(d) of the Tax Reduction Act of 1975.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DESIGNATED DISTRIBUTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'designated distribution' means any distribution or payment from or under—

"(i) an employer deferred compensation plan,

"(ii) an individual retirement plan (as defined in section 7701(a)(37)), or

"(iii) a commercial annuity.

"(B) EXCEPTIONS.—The term 'designated distribution' shall not include—

"(i) any amount which is wages without regard to this section, and

"(ii) the portion of a distribution or payment which it is reasonable to believe is not includible in gross income.

"(2) PERIODIC PAYMENT.—The term 'periodic payment' means a designated distribution which is an annuity or similar periodic payment.

"(3) NONPERIODIC DISTRIBUTION.—The term 'nonperiodic distribution' means any designated distribution which is not a periodic payment.

"(4) QUALIFIED TOTAL DISTRIBUTION.—

"(A) IN GENERAL.—The term 'qualified total distribution' means any distribution which—

"(i) is a designated distribution,

"(ii) it is reasonable to believe is made within 1 taxable year of the recipient,

"(iii) is made under a plan described in section 401(a), or 403(a), and

"(iv) consists of the balance to the credit of the employee under such plan.

"(B) SPECIAL RULE FOR ACCUMULATED DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—For purposes of subparagraph (A), accumulated deductible employee contributions (within the meaning of section 72(o)(5)(B)) shall be treated separately in determining if there has been a qualified total distribution. 95 Stat. 278.

"(5) EMPLOYER DEFERRED COMPENSATION PLAN.—The term 'employer deferred compensation plan' means any pension, annuity, profit-sharing, or stock bonus plan or other plan deferring the receipt of compensation.

"(6) COMMERCIAL ANNUITY.—The term 'commercial annuity' means an annuity, endowment, or life insurance contract issued by an insurance company licensed to do business under the laws of any State.

"(7) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g).

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than employer securities of the employer corporation (within the meaning of section 402(a)(3))) received in the distribution.

"(9) SEPARATE ARRANGEMENTS TO BE TREATED SEPARATELY.—If the payor has more than 1 arrangement under which designated distributions may be made to any individual, each such arrangement shall be treated separately.

"(10) TIME AND MANNER OF ELECTION.—

"(A) IN GENERAL.—Any election and any revocation under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(B) PAYOR REQUIRED TO NOTIFY PAYEE OF RIGHTS TO ELECT.—

"(i) PERIODIC PAYMENTS.—The payor of any periodic payment—

"(I) shall transmit to the payee notice of the right to make an election under subsection (a) not

earlier than 6 months before the first of such payments and not later than when making the first of such payments,

"(II) if such a notice is not transmitted under subclause (I) when making such first payment, shall transmit such a notice when making such first payment, and

"(III) shall transmit to payees, not less frequently than once each calendar year, notice of their rights to make elections under subsection (a) and to revoke such elections.

"(ii) NONPERIODIC DISTRIBUTIONS.—The payor of any nonperiodic distribution shall transmit to the payee notice of the right to make any election provided in subsection (b) at the time of the distribution (or at such earlier time as may be provided in regulations).

"(iii) NOTICE.—Any notice transmitted pursuant to this subparagraph shall be in such form and contain such information as the Secretary shall prescribe.

"(11) WITHHOLDING INCLUDES DEDUCTION.—The terms 'withholding', 'withhold', and 'withheld' include 'deducting', 'deduct', and 'deducted'.

"(e) WITHHOLDING TO BE TREATED AS WAGE WITHHOLDING UNDER SECTION 3402 FOR OTHER PURPOSES.—For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

"(1) any designated distribution (whether or not an election under this section applies to such distribution) shall be treated as if it were wages paid by an employer to an employee with respect to which there has been withholding under section 3402, and

"(2) in the case of any designated distribution not subject to withholding under this section by reason of an election under this section, the amount withheld shall be treated as zero."

26 USC 6047.

(b) FILING OF REPORTS.—Section 6047 (relating to information concerning certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REPORTS BY EMPLOYERS, PLAN ADMINISTRATORS, ETC.—

"(1) IN GENERAL.—The Secretary shall by forms or regulations require that—

"(A) the employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, a plan from which designated distributions (as defined in section 3405(d)(1)) may be made, and

"(B) any person issuing any contract under which designated distributions (as so defined) may be made,

make returns and reports regarding such plan (or contract) to the Secretary, to the participants and beneficiaries of such plan (or contract), and to such other persons as the Secretary may by regulations prescribe.

"(2) FORM, ETC., OF REPORTS.—Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by forms or regulations."

(c) PENALTY FOR FAILURE TO KEEP RECORDS NECESSARY TO COMPLY WITH REPORTING REQUIREMENTS OF SECTION 6047(e).—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6704. FAILURE TO KEEP RECORDS NECESSARY TO MEET REPORTING REQUIREMENTS UNDER SECTION 6047(e). 26 USC 6704.

"(a) LIABILITY FOR PENALTY.—Any person who—

"(1) has a duty to report or may have a duty to report any information under section 6047(e), and

"(2) fails to keep such records as may be required by regulations prescribed under section 6047(e) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—The penalty of any person for any calendar year shall be $50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

"(2) MAXIMUM AMOUNT.—The penalty under this section of any person for any calendar year shall not exceed $50,000.

"(c) EXCEPTIONS.—

"(1) REASONABLE CAUSE.—No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

"(2) INABILITY TO CORRECT PREVIOUS FAILURE.—No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

"(3) PRE-1983 FAILURES.—No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6704. Failure to keep records necessary to meet reporting requirements under section 6047(e)."

(d) COORDINATION WITH VOLUNTARY WITHHOLDING ON CERTAIN PAYMENTS OTHER THAN WAGES.—Subsection (o) of section 3402 (relating to extension of withholding to certain payments other than wages) is amended by adding at the end thereof the following new paragraph: 26 USC 3402.

"(6) COORDINATION WITH WITHHOLDING ON DESIGNATED DISTRIBUTIONS UNDER SECTION 3405.—This subsection shall not apply to any amount which is a designated distribution (within the meaning of section 3405(d)(1))."

(e) EFFECTIVE DATES.— 26 USC 3405 note.

(1) AMENDMENT MADE BY SUBSECTIONS (a) AND (d).—Except as provided in paragraph (4), the amendment made by subsections (a) and (d) shall apply to payments or other distributions made after December 31, 1982.

(2) AMENDMENTS MADE BY SUBSECTION (b).—Except as provided in paragraph (4), the amendments made by subsection (b) shall take effect on January 1, 1983.

(3) AMENDMENTS MADE BY SUBSECTION (c).—The amendments made by subsection (c) shall take effect on January 1, 1985.

(4) PERIODIC PAYMENTS BEGINNING BEFORE JANUARY 1, 1983.—For purposes of section 3405(a) of the Internal Revenue Code of 1954, in the case of periodic payments beginning before January 1, 1983, the first periodic payment after December 31, 1982, shall be treated as the first such periodic payment.

Regulations.

(5) DELAY IN APPLICATION.—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond June 30, 1983) the application of some or all of the amendments made by this section with respect to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(6) WAIVER OF PENALTY.—No penalty shall be assessed under section 6672 with respect to any failure to withhold as required by the amendments made by this section if such failure was before July 1, 1983, and if the person made a good faith effort to comply with such withholding requirements.

SEC. 335. PARTIAL ROLLOVERS OF IRA DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

26 USC 408.

(1) Paragraph (3) of section 408(d) is amended by adding at the end thereof the following new subparagraph:

"(C) PARTIAL ROLLOVERS PERMITTED.—

"(i) IN GENERAL.—If any amount paid or distributed out of an individual retirement account or individual retirement annuity would meet the requirements of subparagraph (A) but for the fact that the entire amount was not paid into an eligible plan as required by clause (i), (ii), or (iii) of subparagraph (A), such amount shall be treated as meeting the requirements of subparagraph (A) to the extent it is paid into an eligible plan referred to in such clause not later than the 60th day referred to in such clause.

"(ii) ELIGIBLE PLAN.—For purposes of clause (i), the term 'eligible plan' means any account, annuity, bond, contract, or plan referred to in subparagraph (A)."

26 USC 409.

(2) Paragraph (3) of section 409(b) is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL ROLLOVERS PERMITTED.—Rules similar to the rules of section 408(d)(3)(C) shall apply for purposes of subparagraph (C)."

26 USC 408 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to distributions made after December 31, 1982, in taxable years ending after such date.

Subtitle F—Transactions Outside the United States or Involving Foreign Persons

SEC. 336. JURISDICTION OF COURT AND ENFORCEMENT OF SUMMONS IN CASE OF PERSONS RESIDING OUTSIDE THE UNITED STATES.

26 USC 7701.

(a) GENERAL RULE.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(38) PERSONS RESIDING OUTSIDE UNITED STATES.—If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to—

"(A) jurisdiction of courts, or

"(B) enforcement of summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the day after the date of the enactment of this Act. 26 USC 7701 note.

SEC. 337. ADMISSIBILITY OF EVIDENCE MAINTAINED IN FOREIGN COUNTRIES.

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart I—Admissibility of Documentation Maintained in Foreign Countries

"Sec. 982. Admissibility of documentation maintained in foreign countries.

"SEC. 982. ADMISSIBILITY OF DOCUMENTATION MAINTAINED IN FOREIGN COUNTRIES. 26 USC 982.

"(a) GENERAL RULE.—If the taxpayer fails to substantially comply with any formal document request arising out of the examination of the tax treatment of any item (hereinafter in this section referred to as the 'examined item') before the 90th day after the date of the mailing of such request on motion by the Secretary, any court having jurisdiction of a civil proceeding in which the tax treatment of the examined item is an issue shall prohibit the introduction by the taxpayer of any foreign-based documentation covered by such request.

"(b) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to any documentation if the taxpayer establishes that the failure to provide the documentation as requested by the Secretary is due to reasonable cause.

"(2) FOREIGN NONDISCLOSURE LAW NOT REASONABLE CAUSE.—For purposes of paragraph (1), the fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

"(c) FORMAL DOCUMENT REQUEST.—For purposes of this section—

"(1) FORMAL DOCUMENT REQUEST.—The term 'formal document request' means any request (made after the normal request procedures have failed to produce the requested documentation) for the production of foreign-based documentation which is mailed by registered or certified mail to the taxpayer at his last known address and which sets forth—

"(A) the time and place for the production of the documentation,

"(B) a statement of the reason the documentation previously produced (if any) is not sufficient,

"(C) a description of the documentation being sought, and

"(D) the consequences to the taxpayer of the failure to produce the documentation described in subparagraph (C).

"(2) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person to whom a formal document request is mailed shall have the right to begin a proceeding to quash such request not later than the 90th day after the day such request was mailed. In any such proceeding, the Secretary may seek to compel compliance with such request.

"(B) JURISDICTION.—The United States district court for the district in which the person (to whom the formal document request is mailed) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order denying the petition shall be deemed a final order which may be appealed.

"(C) SUSPENSION OF 90-DAY PERIOD.—The running of the 90-day period referred to in subsection (a) shall be suspended during any period during which a proceeding brought under subparagraph (A) is pending.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FOREIGN-BASED DOCUMENTATION.—The term 'foreign-based documentation' means any documentation which is outside the United States and which may be relevant or material to the tax treatment of the examined item.

"(2) DOCUMENTATION.—The term 'documentation' includes books and records.

"(3) FOREIGN-CONNECTED.—An item shall be treated as foreign-connected if—

"(A) such item is directly or indirectly from a source outside the United States, or

"(B) such item (in whole or in part)—

"(i) purports to arise outside the United States, or

"(ii) is otherwise dependent on transactions occurring outside the United States.

"(4) AUTHORITY TO EXTEND 90-DAY PERIOD.—The Secretary, and any court having jurisdiction over a proceeding under subsection (c)(2), may extend the 90-day period referred to in subsection (a).

"(e) SUSPENSION OF STATUTE OF LIMITATIONS.—If any person takes any action as provided in subsection (c)(2), the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which the proceeding under such subsection, and appeals therein, are pending."

(b) CLERICAL AMENDMENT.—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart I. Admissibility of documentation maintained in foreign countries."

26 USC 982 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to formal document requests (as defined in section 982(c)(1) of the Internal Revenue Code of 1954, as added by this section) mailed after the date of the enactment of this Act.

SEC. 338. PENALTY FOR FAILURE TO FURNISH INFORMATION WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 6038 (relating to information with respect to certain foreign corporations) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection: 26 USC 6038.

"(b) DOLLAR PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If any person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), such person shall pay a penalty of $1,000 for each annual accounting period with respect to which such failure exists.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues with respect to any annual accounting period after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $24,000."

(b) COORDINATION WITH EXISTING REDUCTION IN FOREIGN TAX CREDIT.—Subsection (c) of section 6038 (as redesignated by subsection (a)) is amended—

(1) by inserting "and subsection (b)" after "subsection" in paragraph (3)(B), and

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (b).—The amount of the reduction which (but for this paragraph) would be made under paragraph (1) with respect to any annual accounting period shall be reduced by the amount of the penalty imposed by subsection (b) with respect to such period."

(c) TECHNICAL AMENDMENTS.—

(1) The subsection heading of subsection (c) of section 6038 (as redesignated by subsection (a)) is amended to read as follows: "(c) PENALTY OF REDUCING FOREIGN TAX CREDIT.—".

(2) Paragraph (1) of section 6038(a) is amended by striking out "within the meaning of subsection (d)(1)" and inserting in lieu thereof "within the meaning of subsection (e)(1)".

(3) The last sentence of paragraph (1) of section 6038(c) (as redesignated by subsection (a)) is amended by inserting "of such failure" after "notice".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information for annual accounting periods ending after the date of the enactment of this Act. 26 USC 6038 note.

SEC. 339. INFORMATION REQUIREMENTS WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038 the following new section:

26 USC 6038A.

"SEC. 6038A. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

"(a) REQUIREMENT.—If, at any time during a taxable year, a corporation (hereinafter in this section referred to as the 'reporting corporation')—

"(1) is a domestic corporation or is a foreign corporation engaged in trade or business within the United States, and

"(2) is controlled by a foreign person,

such corporation shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in subsection (b).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is such information as the Secretary may prescribe by regulations relating to—

"(1) the name, principal place of business, nature of business, and country or countries in which organized or resident, of each corporation which—

"(A) is a member of the same controlled group as the reporting corporation, and

"(B) had any transaction with the reporting corporation during its taxable year,

"(2) the manner in which the reporting corporation is related to each corporation referred to in paragraph (1), and

"(3) transactions between the reporting corporation and each foreign corporation which is a member of the same controlled group as the reporting corporation.

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

"(1) CONTROL.—The term 'control' has the meaning given to such term by section 6038(d)(1); except that 'at least 50 percent' shall be substituted for 'more than 50 percent' each place it appears in such section.

"(2) CONTROLLED GROUP.—The term 'controlled group' means any controlled group of corporations within the meaning of section 1563(a); except that—

"(A) 'at least 50 percent' shall be substituted—

"(i) for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) for 'more than 50 percent' each place it appears in section 1563(a)(2)(B), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(3) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30); except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(d) PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If a reporting corporation fails to furnish (within the time prescribed by regulations) any information described in subsection (b), such corporation shall pay a penalty of $1,000 for each taxable year with respect to which such failure occurs.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $24,000.

"(3) REASONABLE CAUSE.—For purposes of this subsection, the time prescribed by regulations to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information.

"(e) CROSS REFERENCE.—

"For provisions relating to criminal penalties for violation of this section, see section 7203."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting the following new item after the item relating to section 6038:

"Sec. 6038A. Information with respect to certain foreign-owned corporations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. 26 USC 6038A note.

SEC. 340. RETURNS WITH RESPECT TO FOREIGN PERSONAL HOLDING COMPANIES.

(a) GENERAL RULE.—Section 6035 (relating to returns of officers, directors, and shareholders of foreign personal holding companies) is amended to read as follows: 26 USC 6035.

"SEC. 6035. RETURNS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF FOREIGN PERSONAL HOLDING COMPANIES.

"(a) GENERAL RULE.—Each United States citizen or resident who is an officer, director, or 10-percent shareholder of a corporation which was a foreign personal holding company (as defined in section 552) for any taxable year shall file a return with respect to such taxable year setting forth—

"(1) the shareholder information required by subsection (b),

"(2) the income information required by subsection (c), and

"(3) such other information with respect to such corporation as the Secretary shall by forms or regulations prescribe as necessary for carrying out the purposes of this title.

"(b) SHAREHOLDER INFORMATION.—The shareholder information required by this subsection with respect to any taxable year shall be—

"(1) the name and address of each person who at any time during such taxable year held any share in the corporation,

"(2) a description of each class of shares and the total number of shares of such class outstanding at the close of the taxable year,

"(3) the number of shares of each class held by each person, and

"(4) any changes in the holdings of shares during the taxable year.

For purposes of paragraphs (1), (3), and (4), the term 'share' includes any security convertible into a share in the corporation and any option granted by the corporation with respect to any share in the corporation.

"(c) INCOME INFORMATION.—The income information required by this subsection for any taxable year shall be the gross income, deductions, credits, taxable income, and undistributed foreign personal holding company income of the corporation for the taxable year.

"(d) TIME AND MANNER FOR FURNISHING INFORMATION.—The information required under subsection (a) shall be furnished at such time and in such manner as the Secretary shall by forms and regulations prescribe.

"(e) DEFINITION AND SPECIAL RULES.—

"(1) 10-PERCENT SHAREHOLDER.—For purposes of this section, the term '10-percent shareholder' means any individual who owns directly or indirectly (within the meaning of section 554) 10 percent or more in value of the outstanding stock of a foreign corporation.

"(2) TIME FOR MAKING DETERMINATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of whether any person is an officer, director, or 10-percent shareholder with respect to any foreign corporation shall be made as of the date on which the return is required to be filed.

"(B) SPECIAL RULE.—If after the application of subparagraph (A) no person is required to file a return under subsection (a) with respect to any foreign corporation for any taxable year, the determination of whether any person is an officer, director, or 10-percent shareholder with respect to such foreign corporation shall be made on the last day of such taxable year on which there was such a person who was a United States citizen or resident.

"(3) 2 OR MORE PERSONS REQUIRED TO FURNISH INFORMATION WITH RESPECT TO SAME FOREIGN CORPORATION.—If, but for this paragraph, 2 or more persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for the same taxable year, the Secretary may by regulations provide that such information shall be required only from 1 person."

(b) APPLICATION OF PENALTY.—

26 USC 6679.

(1) Subsection (a) of section 6679 is amended by striking out "section 6046" and inserting in lieu thereof "section 6035 or 6046".

(2) The section heading for section 6679 is amended to read as follows:

"SEC. 6679. FAILURE TO FILE RETURNS OR SUPPLY INFORMATION UNDER SECTION 6035 OR 6046."

(3) The item relating to section 6679 in the table of sections for subchapter B of chapter 68 is amended to read as follows:

"Sec. 6679. Failure to file returns or supply information under section 6035 or 6046."

26 USC 6035 note.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act.

SEC. 341. AUTHORITY TO DELAY DATE FOR FILING CERTAIN RETURNS RELATING TO FOREIGN CORPORATIONS AND FOREIGN TRUSTS.

(a) FOREIGN CORPORATIONS.—Subsection (d) of section 6046 (relating to time for filing returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by inserting before the period at the end thereof the following: "(or on or before such later day as the Secretary may by forms or regulations prescribe)". 26 USC 6046.

(b) FOREIGN TRUSTS.—Subsection (a) of section 6048 (relating to returns as to certain foreign trusts) is amended by inserting "(or on or before such later day as the Secretary may by regulations prescribe)" after "the 90th day". 26 USC 6048.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act. 26 USC 6046 note.

SEC. 342. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS. 26 USC 1441 note.

Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe regulations establishing certification procedures, refund procedures, or other procedures which ensure that any benefit of any treaty relating to withholding of tax under sections 1441 and 1442 of the Internal Revenue Code of 1954 is available only to persons entitled to such benefit.

SEC. 343. TECHNICAL AMENDMENT RELATING TO PENALTY UNDER SECTION 905(c).

(a) GENERAL RULE.—Subsection (c) of section 905 (relating to adjustments on payment of accrued taxes) is amended by striking out the last sentence. 26 USC 905.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall have the same effect as if the last sentence of section 905(c) had never been enacted. 26 USC 905 note.

Subtitle G—Modification of Interest Provisions

SEC. 344. INTEREST COMPOUNDED DAILY.

(a) IN GENERAL.—Subchapter C of chapter 67 (relating to determination of rate of interest) is amended by adding at the end thereof the following new section:

"SEC. 6622. INTEREST COMPOUNDED DAILY. 26 USC 6622.

"(a) GENERAL RULE.—In computing the amount of any interest required to be paid under this title or sections 1961(c)(1) or 2411 of title 28, United States Code, by the Secretary or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

"(b) EXCEPTION FOR PENALTY FOR FAILURE TO FILE ESTIMATED TAX.—Subsection (a) shall not apply for purposes of computing the amount of any addition to tax under section 6654 or 6655."

(b) CONFORMING AMENDMENTS.—

(1) Section 6601(e) (relating to applicable rules) is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively. 26 USC 6601.

(2) The table of sections for subchapter C of chapter 67 is amended by inserting after section 6621 the following new item:

"Sec. 6622. Interest compounded daily."

(3)(A) The heading for subchapter C of chapter 67 is amended by inserting "; Compounding of Interest" after "Rate".

(B) The item relating to subchapter C in the table of subchapters for chapter 67 is amended by inserting "; compounding of interest" after "rate".

26 USC 6622 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing after December 31, 1982.

SEC. 345. DETERMINATION OF RATE OF INTEREST TO BE MADE SEMI-ANNUALLY.

26 USC 6621.

(a) IN GENERAL.—Subsection (b) of section 6621 (relating to determination of rate of interest) is amended to read as follows:

"(b) ADJUSTMENT OF INTEREST RATE.—

"(1) ESTABLISHMENT OF ADJUSTED RATE.—If the adjusted prime rate charged by banks (rounded to the nearest full percent)—

"(A) during the 6-month period ending on September 30 of any calendar year, or

"(B) during the 6-month period ending on March 31 of any calendar year,

differs from the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate.

"(2) EFFECTIVE DATE OF ADJUSTMENT.—Any adjusted rate of interest established under paragraph (1) shall become effective—

"(A) on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and

"(B) on July 1 of the same year in the case of an adjustment attributable to paragraph(1)(B)."

26 USC 6621 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments taking effect on January 1, 1983.

SEC. 346. RESTRICTIONS ON PAYMENT OF INTEREST FOR CERTAIN PERIODS.

26 USC 6611.

(a) INTEREST WITH RESPECT TO DELINQUENT RETURNS.—Section 6611(b) (relating to period for which interest on refunds is paid) is amended by adding at the end thereof the following new paragraph:

"(3) LATE RETURNS.—Notwithstanding paragraph (1) or (2) in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed."

(b) NO INTEREST IF RETURN NOT IN PROCESSIBLE FORM.—Section 6611 (relating to interest on overpayments) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) NO INTEREST UNTIL RETURN IN PROCESSIBLE FORM.—

"(1) For purposes of subsections (b)(3), (e), and (h), a return shall not be treated as filed until it is filed in processible form.

"(2) For purposes of paragraph (1), a return is in a processible form if—

"(A) such return is filed on a permitted form, and

"(B) such return contains—

"(i) the taxpayer's name, address, and identifying number and the required signature, and

"(ii) sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return."

(c) MODIFICATION OF INTEREST IN THE CASE OF CARRYBACKS.—

(1) OVERPAYMENTS.—

(A) Paragraph (1) of section 6611(f) (relating to refund of income tax caused by carryback or adjustment for unused deductions) is amended by striking out "the close of the taxable year" and inserting in lieu thereof "the filing date for the taxable year". 26 USC 6611.

(B) Subparagraph (A) of section 6611(f)(2) is amended by striking out "the close of" each place it appears and inserting in lieu thereof "the filing date for".

(C) Subsection (f) of section 6611 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR PARAGRAPHS (1) AND (2).—

"(A) FILING DATE.—For purposes of this subsection, the term 'filing date' means the last date prescribed for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to extensions).

"(B) COORDINATION WITH SUBSECTION (e).—

"(i) IN GENERAL.—FOR PURPOSES OF SUBSECTION (e)—

"(I) any overpayment described in paragraph (1) or (2) shall be treated as an overpayment for the loss year, and

"(II) such subsection shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed.

"(ii) LOSS YEAR.—For purposes of this subparagraph, the term 'loss year' means—

"(I) in the case of a carryback of a net operating loss or net capital loss, the taxable year in which such loss arises, and

"(II) in the case of a credit carryback, the taxable year in which such credit carryback arises (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback, or other credit carryback from a subsequent taxable year, such subsequent taxable year)."

(D) Subsection (g) of section 6611 is amended by striking out "the close of the taxable year" and inserting in lieu thereof "the filing date (as defined in subsection (f)(3)) for the taxable year".

(2) UNDERPAYMENTS.—

(A) Paragraph (1) of section 6601(d) (relating to income tax reduced by carryback for adjustment for certain unused deductions) is amended by striking out "the last day of the taxable year" and inserting in lieu thereof "the filing date for the taxable year". 26 USC 6601.

(B) Subparagraph (A) of section 6601(d)(2) is amended by striking out "the last day of the" each place it appears and inserting in lieu thereof "the filing date for".

(C) Subsection (d) of section 6601 is amended by adding at the end thereof the following new paragraph:

"(4) FILING DATE.—For purposes of this subsection, the term 'filing date' has the meaning given to such term by section 6611(f)(3)(A)."

26 USC 6611 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to returns filed after the 30th day after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to interest accruing after the 30th day after the date of the enactment of this Act.

Subtitle H—Taxpayer Safeguard Amendments

SEC. 347. INCREASE IN CERTAIN EXEMPTIONS FROM LEVY.

(a) GENERAL RULE.—

26 USC 6334.

(1) FUEL, PROVISIONS, FURNITURE, AND PERSONAL EFFECTS.—Paragraph (2) of section 6334(a) (relating to property exempt from levy) is amended by striking out "$500" and inserting in lieu thereof "$1,500".

(2) BOOKS AND TOOLS OF A TRADE, BUSINESS, OR PROFESSION.—Paragraph (3) of section 6334(a) is amended by striking out "$250" and inserting in lieu thereof "$1,000".

(3) WAGES, SALARY, OR OTHER INCOME.—Paragraph (1) of section 6334(d) (relating to exempt amount of wages, salary, or other income) is amended—

(A) by striking out "$50" and inserting in lieu thereof "$75", and

(B) by striking out "$15" and inserting in lieu thereof "$25".

26 USC 6334 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to levies made after December 31, 1982.

SEC. 348. REQUIRED RELEASE OF LIEN.

26 USC 6325.

(a) GENERAL RULE.—So much of subsection (a) of section 6325 (relating to release of lien) as precedes paragraph (1) thereof is amended to read as follows:

"(a) RELEASE OF LIEN.—Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which—".

26 USC 6325 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to liens—

(1) which are filed after December 31, 1982,

(2) which are satisfied after December 31, 1982, or

(3) with respect to which the taxpayer after December 31, 1982, requests the Secretary of the Treasury or his delegate to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.

SEC. 349. REQUIREMENT OF TIMELY NOTICE OF LEVY.

(a) GENERAL RULE.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (e) as subsection (f) and by striking out subsection (d) and inserting in lieu thereof the following new subsections: 26 USC 6331.

"(d) REQUIREMENT OF NOTICE BEFORE LEVY.—

"(1) IN GENERAL.—Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

"(2) 10-DAY REQUIREMENT.—The notice required under paragraph (1) shall be—

"(A) given in person,

"(B) left at the dwelling or usual place of business of such person, or

"(C) sent by certified or registered mail to such person's last known address,

no less than 10 days before the day of the levy.

"(3) JEOPARDY.—Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

"(e) CONTINUING LEVY ON SALARY AND WAGES.—

"(1) EFFECT OF LEVY.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

"(2) RELEASE AND NOTICE OF RELEASE.—With respect to a levy described in paragraph (1), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies made after December 31, 1982. 26 USC 6331 note.

SEC. 349A. EXTENSION OF PERIOD FOR REDEMPTION OF REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 6337(b) (relating to period for redemption of real estate after sale) is amended by striking out "120 days" and inserting in lieu thereof "180 days". 26 USC 6337.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to property sold after the date of the enactment of this Act. 26 USC 6337 note.

SEC. 350. AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY.

(a) GENERAL RULE.—Subparagraph (C) of section 7426(b)(2) (relating to amount of damages) is amended to read as follows: 26 USC 7426.

"(C) if such property was sold, grant a judgment for an amount not exceeding the greater of—

"(i) the amount received by the United States from the sale of such property, or

"(ii) the fair market value of such property immediately before the levy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to levies made after December 31, 1982. 26 USC 7426 note.

Subtitle I—Other Provisions

SEC. 351. DISALLOWANCE OF DEDUCTIONS RELATING TO NARCOTICS TRAFFICKING.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

26 USC 280E.

"SEC. 280E. EXPENDITURES IN CONNECTION WITH THE ILLEGAL SALE OF DRUGS.

"No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted."

21 USC 812.

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280E. Expenditures in connection with the illegal sale of drugs."

26 USC 280E note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 352. SENSE OF CONGRESS WITH RESPECT TO PROVIDING OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE.

It is the sense of the Congress that there be appropriated for the use of the Internal Revenue Service to provide additional staff—

(1) for fiscal year 1983, the amounts proposed in the President's budget for fiscal year 1983, and

(2) such amounts in excess of the amount requested for such purpose in the President's proposed budgets as may be necessary to provide sufficient improved enforcement to increase revenues by $1 billion in fiscal year 1984 and $2 billion in fiscal year 1985.

26 USC 6011 note.

SEC. 353. REPORT ON FORMS.

Not later than June 30, 1983, the Secretary of the Treasury or his delegate shall study and report to the Congress methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the returns of tax imposed by chapter 1 of the Internal Revenue Code of 1954.

SEC. 354. EXEMPTION OF VETERANS' ORGANIZATIONS.

26 USC 501.

(a) IN GENERAL.—Paragraph (19) of section 501(c) (relating to exemption of veterans' organizations) is amended—

(1) by striking out "war veterans" the first place it appears and inserting in lieu thereof "past or present members of the Armed Forces of the United States", and

(2) by amending subparagraph (B) to read as follows:

"(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or

widowers of past or present members of the Armed Forces of the United States or of cadets, and".

(b) ASSOCIATIONS ORGANIZED BEFORE 1880.—Subsection (c) of section 501 (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph: 26 USC 501.

"(23) any association organized before 1880 more than 25 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 501 note.

SEC. 355. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title III of the Communications Act of 1934 is amended by inserting immediately after section 330 therein the following new section:

"VERY HIGH FREQUENCY STATIONS

"SEC. 331. It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which licensee of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed 5 years as provided in section 307(d) of the Communications Act of 1934." 47 USC 331. 47 USC 307.

SEC. 356. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.— Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraphs (1), (2), (3), (4), and (5) and inserting in lieu thereof the following: 26 USC 6103.

"(1) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party,

"(ii) any investigation which may result in such a proceeding, or

"(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party,

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

"(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

"(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

"(2) DISCLOSURE OF RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

"(ii) any investigation which may result in such a proceeding, or

"(iii) any grand jury proceeding described in paragraph (1)(A)(iii),

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request is in writing and sets forth—

"(i) the name and address of the taxpayer with respect to whom the requested return information relates;

"(ii) the taxable period or periods to which such return information relates;

"(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

"(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

"(C) TAXPAYER IDENTITY.—For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(3) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF CRIMINAL ACTIVITIES OR EMERGENCY CIRCUMSTANCES.—

"(A) POSSIBLE VIOLATIONS OF FEDERAL CRIMINAL LAW.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

"(ii) TAXPAYER IDENTITY.—If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

"(B) EMERGENCY CIRCUMSTANCES.—

"(i) DANGER OF DEATH OR PHYSICAL INJURY.—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

"(ii) FLIGHT FROM FEDERAL PROSECUTION.—Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

"(4) USE OF CERTAIN DISCLOSED RETURNS AND RETURN INFORMATION IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—

"(A) RETURNS AND TAXPAYER RETURN INFORMATION.—Except as provided in subparagraph (C), any return or taxpayer return information obtained under paragraph (1) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

"(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

"(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure.

18 USC app.

"(B) RETURN INFORMATION (OTHER THAN TAXPAYER RETURN INFORMATION).—Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), or (3)(A) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

"(C) CONFIDENTIAL INFORMANT; IMPAIRMENT OF INVESTIGATIONS.—No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(D) CONSIDERATION OF CONFIDENTIALITY POLICY.—In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

"(E) REVERSIBLE ERROR.—The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

"(5) DISCLOSURE TO LOCATE FUGITIVES FROM JUSTICE.—

"(A) IN GENERAL.—Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

"(B) APPLICATION FOR ORDER.—Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate for an order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

"(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

"(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

"(6) CONFIDENTIAL INFORMANTS; IMPAIRMENT OF INVESTIGATIONS.—The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A), (5), or (7) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (p) of section 6103 (relating to procedure and recordkeeping) is amended— 26 USC 6103.

(A) by striking out "(6)(A)(ii)" in paragraph (3)(A) and inserting in lieu thereof "(7)(A)(ii)",

(B) by striking out "(d)" in paragraph (3)(C)(i) and inserting in lieu thereof "(d), (i)(3)(B)(i),",

(C) by striking out "such requests" in paragraph (3)(C)(i)(II) and inserting in lieu thereof "such requests or otherwise",

(D) by striking out "(i)(1), (2), or (5)" each place it appears in paragraph (4) and inserting in lieu thereof "(i)(1), (2), (3), or (5)",

(E) by striking out "(d)" each place it appears in paragraph (4) and inserting in lieu thereof "(d), (i)(3)(B)(i),", and

(F) by striking out "subsection (i)(6)(A)(ii)" in paragraph (6)(B)(i) and inserting in lieu thereof "subsection (i)(7)(A)(ii)".

(2) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out "(d)" and inserting in lieu thereof "(d), (i)(3)(B)(i),". 26 USC 7213.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act. 26 USC 6103 note.

SEC. 357. CIVIL DAMAGES AGAINST UNITED STATES FOR UNAUTHORIZED DISCLOSURES BY AN EMPLOYEE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7431 as section 7432 and inserting after section 7430 the following new section: 26 USC 7432.

"SEC. 7431. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION. 26 USC 7431.

"(a) IN GENERAL.—

"(1) DISCLOSURE BY EMPLOYEE OF UNITED STATES.—If any officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages

against the United States in a district court of the United States.

"(2) DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.—If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.

"(c) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) the greater of—

"(A) $1,000 for each act of unauthorized disclosure of a return or return information with respect to which such defendant is found liable, or

"(B) the sum of—

"(i) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure, plus

"(ii) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus

"(2) the costs of the action.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized disclosure.

"(e) RETURN; RETURN INFORMATION.—For purposes of this section, the terms 'return' and 'return information' have the respective meanings given such terms in section 6103(b)."

(b) CONFORMING AMENDMENTS.—

Repeal. 26 USC 7217.

(1) Section 7217 (relating to civil damages for unauthorized disclosure of returns and return information) is hereby repealed.

(2) The table of sections for part I of subchapter A of chapter 75 is amended by striking out the item relating to section 7217.

(3) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7431 and inserting in lieu thereof the following:

"Sec. 7431. Civil damages for unauthorized disclosure of returns and return information.

"Sec. 7432. Cross references."

26 USC 7431 note.

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

SEC. 358. DISCLOSURE FOR USE IN CERTAIN AUDITS BY GENERAL ACCOUNTING OFFICE.

Ante, p. 641.

(a) IN GENERAL.—Paragraph (7) of section 6103(i) (relating to disclosure to Comptroller General), as redesignated by section 396(a), is amended by redesignating subparagraph (B) as subparagraph (C)

and by inserting after subparagraph (A) the following new subparagraph:

"(B) AUDITS OF OTHER AGENCIES.—

"(i) IN GENERAL.—Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

"(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

"(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

"(ii) INFORMATION FROM SECRETARY.—If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (l) or (m) to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

"(iii) REQUIREMENT OF NOTIFICATION UPON COMPLETION OF AUDIT.—Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

"(I) a description of the use of the returns and return information by the Federal agency involved,

"(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

"(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

"(iv) CERTAIN RESTRICTIONS MADE APPLICABLE.—The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph."

(b) CONFORMING AMENDMENTS.—

26 USC 6103.

(1) Subparagraph (A) of section 6103(i)(7) of such Code (as redesignated by this Act) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (C)".

(2) Subparagraph (C) of section 6103(i)(7) of such Code (as redesignated by this Act) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A) or (B)".

26 USC 6103 note.

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

Tax Treatment of Partnership Items Act of 1982.

TITLE IV—TAX TREATMENT OF PARTNERSHIP ITEMS

26 USC 1 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Tax Treatment of Partnership Items Act of 1982".

SEC. 402. TAX TREATMENT OF PARTNERSHIP ITEMS.

(a) GENERAL RULE.—Chapter 63 (relating to assessment) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Tax Treatment of Partnership Items

26 USC 6221.

"SEC. 6221. TAX TREATMENT DETERMINED AT PARTNERSHIP LEVEL.

"Except as otherwise provided in this subchapter, the tax treatment of any partnership item shall be determined at the partnership level.

26 USC 6222.

"SEC. 6222. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.

"(a) IN GENERAL.—A partner shall, on the partner's return, treat a partnership item in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(1) IN GENERAL.—In the case of any partnership item, if—

"(A)(i) the partnership has filed a return but the partner's treatment on his return is (or may be) inconsistent with the treatment of the item on the partnership return, or

"(ii) the partnership has not filed a return, and

"(B) the partner files with the Secretary a statement identifying the inconsistency,

subsection (a) shall not apply to such item.

"(2) PARTNER RECEIVING INCORRECT INFORMATION.—A partner shall be treated as having complied with subparagraph (B) of paragraph (1) with respect to a partnership item if the partner—

"(A) demonstrates to the satisfaction of the Secretary that the treatment of the partnership item on the partner's return is consistent with the treatment of the item on the schedule furnished to the partner by the partnership, and

"(B) elects to have this paragraph apply with respect to that item.

"(c) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(1) described in paragraph (1)(A)(i) of subsection (b), and

"(2) in which the partner does not comply with paragraph (1)(B) of subsection (b),

section 6225 shall not apply to any part of a deficiency attributable to any computational adjustment required to make the treatment of the items by such partner consistent with the treatment of the items on the partnership return.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a partner's intentional or negligent disregard of requirements of this section, see section 6653(a).

"SEC. 6223. NOTICE TO PARTNERS OF PROCEEDINGS. 26 USC 6223.

"(a) SECRETARY MUST GIVE PARTNERS NOTICE OF BEGINNING AND COMPLETION OF ADMINISTRATIVE PROCEEDINGS.—The Secretary shall mail to each partner whose name and address is furnished to the Secretary notice of—

"(1) the beginning of an administrative proceeding at the partnership level with respect to a partnership item, and

"(2) the final partnership administrative adjustment resulting from any such proceeding.

A partner shall not be entitled to any notice under this subsection unless the Secretary has received (at least 30 days before it is mailed to the tax matters partner) sufficient information to enable the Secretary to determine that such partner is entitled to such notice and to provide such notice to such partner.

"(b) SPECIAL RULES FOR PARTNERSHIP WITH MORE THAN 100 PARTNERS.—

"(1) PARTNER WITH LESS THAN 1 PERCENT INTEREST.—Except as provided in paragraph (2), subsection (a) shall not apply to a partner if—

"(A) the partnership has more than 100 partners, and

"(B) the partner has a less than 1 percent interest in the profits of the partnership.

"(2) SECRETARY MUST GIVE NOTICE TO NOTICE GROUP.—If a group of partners in the aggregate having a 5 percent or more interest in the profits of a partnership so request and designate one of their members to receive the notice, the member so designated shall be treated as a partner to whom subsection (a) applies.

"(c) INFORMATION BASE FOR SECRETARY'S NOTICES, ETC.—For purposes of this subchapter—

"(1) INFORMATION ON PARTNERSHIP RETURN.—Except as provided in paragraphs (2) and (3), the Secretary shall use the names, addresses, and profits interests shown on the partnership return.

"(2) USE OF ADDITIONAL INFORMATION.—The Secretary shall use additional information furnished to him by the tax matters partner or any other person in accordance with regulations prescribed by the Secretary.

"(3) SPECIAL RULE WITH RESPECT TO INDIRECT PARTNERS.—If any information furnished to the Secretary under paragraph (1) or (2)—

"(A) shows that a person has a profits interest in the partnership by reason of ownership of an interest through 1 or more pass-thru partners, and

"(B) contains the name, address, and profits interest of such person,

then the Secretary shall use the name, address, and profits interest of such person with respect to such partnership interest (in lieu of the names, addresses, and profits interests of the pass-thru partners).

"(d) PERIOD FOR MAILING NOTICE.—

"(1) NOTICE OF BEGINNING OF PROCEEDINGS.—The Secretary shall mail the notice specified in paragraph (1) of subsection (a) to each partner entitled to such notice not later than the 120th day before the day on which the notice specified in paragraph (2) of subsection (a) is mailed to the tax matters partner.

"(2) NOTICE OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENT.—The Secretary shall mail the notice specified in paragraph (2) of subsection (a) to each partner entitled to such notice not later than the 60th day after the day on which the notice specified in such paragraph (2) was mailed to the tax matters partner.

"(e) EFFECT OF SECRETARY'S FAILURE TO PROVIDE NOTICE.—

"(1) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection applies where the Secretary has failed to mail any notice specified in subsection (a) to a partner entitled to such notice within the period specified in subsection (d).

"(B) SPECIAL RULES FOR PARTNERSHIPS WITH MORE THAN 100 PARTNERS.—For purposes of subparagraph (A), any partner described in paragraph (1) of subsection (b) shall be treated as entitled to notice specified in subsection (a). The Secretary may provide such notice—

"(i) except as provided in clause (ii), by mailing notice to the tax matters partner, or

"(ii) in the case of a member of a notice group which qualifies under paragraph (2) of subsection (b), by mailing notice to the partner designated for such purpose by the group.

"(2) PROCEEDINGS FINISHED.—In any case to which this subsection applies, if at the time the Secretary mails the partner notice of the proceeding—

"(A) the period within which a petition for review of a final partnership administrative adjustment under section 6226 may be filed has expired and no such petition has been filed, or

"(B) the decision of a court in an action begun by such a petition has become final,

the partner may elect to have such adjustment, such decision, or a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the adjustment relates apply to such partner. If the partner does not make an election under the preceding sentence, the partnership items of the partner for the partnership taxable year to which the proceeding relates shall be treated as nonpartnership items.

"(3) PROCEEDINGS STILL GOING ON.—In any case to which this subsection applies, if paragraph (2) does not apply, the partner shall be a party to the proceeding unless such partner elects—

"(A) to have a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the proceeding relates apply to the partner, or

"(B) to have the partnership items of the partner for the partnership taxable year to which the proceeding relates treated as nonpartnership items.

"(f) ONLY ONE NOTICE OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENT.—If the Secretary mails a notice of final partnership administrative adjustment for a partnership taxable year with respect to a partner, the Secretary may not mail another such notice to such partner with respect to the same taxable year of the same partnership in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) TAX MATTERS PARTNER MUST KEEP PARTNERS INFORMED OF PROCEEDINGS.—To the extent and in the manner provided by regulations, the tax matters partner of a partnership shall keep each partner informed of all administrative and judicial proceedings for the adjustment at the partnership level of partnership items.

"(h) PASS-THRU PARTNER REQUIRED TO FORWARD NOTICE.—

"(1) IN GENERAL.—If a pass-thru partner receives a notice with respect to a partnership proceeding from the Secretary, the tax matters partner, or another pass-thru partner, the pass-thru partner shall, within 30 days of receiving that notice, forward a copy of that notice to the person or persons holding an interest (through the pass-thru partner) in the profits or losses of the partnership for the partnership taxable year to which the notice relates.

"(2) PARTNERSHIP AS PASS-THRU PARTNER.—In the case of a pass-thru partner which is a partnership, the tax matters partner of such partnership shall be responsible for forwarding copies of the notice to the partners of such partnership.

"SEC. 6224. PARTICIPATION IN ADMINISTRATIVE PROCEEDINGS; WAIVERS; AGREEMENTS. 26 USC 6224.

"(a) PARTICIPATION IN ADMINISTRATIVE PROCEEDINGS.—Any partner has the right to participate in any administrative proceeding relating to the determination of partnership items at the partnership level.

"(b) PARTNER MAY WAIVE RIGHTS.—

"(1) IN GENERAL.—A partner may at any time waive—

"(A) any right such partner has under this subchapter, and

"(B) any restriction under this subchapter on action by the Secretary.

"(2) FORM.—Any waiver under paragraph (1) shall be made by a signed notice in writing filed with the Secretary.

"(c) SETTLEMENT AGREEMENT.—In the absence of a showing of fraud, malfeasance, or misrepresentation of fact—

"(1) BINDS ALL PARTIES.—A settlement agreement between the Secretary and 1 or more partners in a partnership with respect to the determination of partnership items for any partnership taxable year shall (except as otherwise provided in such agreement) be binding on all parties to such agreement with respect to the determination of partnership items for such partnership taxable year. An indirect partner is bound by any such agreement entered into by the pass-thru partner unless the indirect partner has been identified as provided in section 6223(c)(3).

"(2) OTHER PARTNERS HAVE RIGHT TO ENTER INTO CONSISTENT AGREEMENTS.—If the Secretary enters into a settlement agreement with any partner with respect to partnership items for any partnership taxable year, the Secretary shall offer to any other partner who so requests settlement terms for the partnership taxable year which are consistent with those contained in such settlement agreement. Except in the case of an election under paragraph (2) or (3) of section 6223(e) to have a settlement agreement described in this paragraph apply, this paragraph shall apply with respect to a settlement agreement entered into with a partner before notice of a final partnership administrative adjustment is mailed to the tax matters partner only if such other partner makes the request before the expiration of 150 days after the day on which such notice is mailed to the tax matters partner.

"(3) TAX MATTERS PARTNER MAY BIND CERTAIN OTHER PARTNERS.—

"(A) IN GENERAL.—A partner who is not a notice partner (and not a member of a notice group described in subsection (b)(2) of section 6223) shall be bound by any settlement agreement—

"(i) which is entered into by the tax matters partner, and

"(ii) in which the tax matters partner expressly states that such agreement shall bind the other partners.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any partner who (within the time prescribed by the Secretary) files a statement with the Secretary providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such partner.

26 USC 6225.

"SEC. 6225. ASSESSMENTS MADE ONLY AFTER PARTNERSHIP LEVEL PROCEEDINGS ARE COMPLETED.

"(a) RESTRICTION ON ASSESSMENT AND COLLECTION.—Except as otherwise provided in this subchapter, no assessment of a deficiency attributable to any partnership item may be made (and no levy or proceeding in any court for the collection of any such deficiency may be made, begun, or prosecuted) before—

"(1) the close of the 150th day after the day on which a notice of a final partnership administrative adjustment was mailed to the tax matters partner, and

"(2) if a proceeding is begun in the Tax Court under section 6226 during such 150-day period, the decision of the court in such proceeding has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court.

"(c) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6226 is begun with respect to any final partnership administrative adjustment during the 150-day period described in subsection (a), the deficiency assessed against any partner with respect to the partnership items to which such adjustment relates shall not exceed the amount determined in accordance with such adjustment.

"SEC. 6226. JUDICIAL REVIEW OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENTS. 26 USC 6226.

"(a) PETITION BY TAX MATTERS PARTNER.—Within 90 days after the day on which a notice of a final partnership administrative adjustment is mailed to the tax matters partner, the tax matters partner may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) PETITION BY PARTNER OTHER THAN TAX MATTERS PARTNER.—

"(1) IN GENERAL.—If the tax matters partner does not file a readjustment petition under subsection (a) with respect to any final partnership administrative adjustment, any notice partner (and any 5-percent group) may, within 60 days after the close of the 90-day period set forth in subsection (a), file a petition for a readjustment of the partnership items for the taxable year involved with any of the courts described in subsection (a).

"(2) PRIORITY OF THE TAX COURT ACTION.—If more than 1 action is brought under paragraph (1) with respect to any partnership for any partnership taxable year, the first such action brought in the Tax Court shall go forward.

"(3) PRIORITY OUTSIDE THE TAX COURT.—If more than 1 action is brought under paragraph (1) with respect to any partnership for any taxable year but no such action is brought in the Tax Court, the first such action brought shall go forward.

"(4) DISMISSAL OF OTHER ACTIONS.—If an action is brought under paragraph (1) in addition to the action which goes forward under paragraph (2) or (3), such action shall be dismissed.

"(5) TAX MATTERS PARTNER MAY INTERVENE.—The tax matters partner may intervene in any action brought under this subsection.

"(c) PARTNERS TREATED AS PARTIES.—If an action is brought under subsection (a) or (b) with respect to a partnership for any partnership taxable year—

"(1) each person who was a partner in such partnership at any time during such year shall be treated as a party to such action, and

"(2) the court having jurisdiction of such action shall allow each such person to participate in the action.

"(d) PARTNER MUST HAVE INTEREST IN OUTCOME.—

"(1) IN ORDER TO BE PARTY TO ACTION.—Subsection (c) shall not apply to a partner after the day on which—

"(A) the partnership items of such partner for the partnership taxable year became nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, or

"(B) the period within which any tax attributable to such partnership items may be assessed against that partner expired.

"(2) TO FILE PETITION.—No partner may file a readjustment petition under subsection (b) unless such partner would (after the application of paragraph (1) of this subsection) be treated as a party to the proceeding.

"(e) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partner filing the petition deposits with the Secretary, on or before the day the petition is filed, the amount by which the tax liability of the partner would be increased if the treatment of partnership items on the partner's return were made consistent with the treatment of partnership items on the partnership return, as adjusted by the final partnership administrative adjustment. In the case of a petition filed by a 5-percent group, the requirement of the preceding sentence shall apply to each member of the group. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirements and any shortfall in the amount required to be deposited is timely corrected.

"(2) REFUND ON REQUEST.—If an action brought in a district court of the United States or in the Claims Court is dismissed by reason of the priority of a Tax Court action under paragraph (2) of subsection (b), the Secretary shall, at the request of the partner who made the deposit, refund the amount deposited under paragraph (1).

"(3) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

26 USC 6601 *et seq.*

"(f) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of final partnership administrative adjustment relates and the proper allocation of such items among the partners.

"(g) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. Only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this section.

"(h) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed (other than under paragraph (4) of subsection (b)), the decision of the court dismissing the action shall be considered as its decision that the notice of final partnership

administrative adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6227. ADMINISTRATIVE ADJUSTMENT REQUESTS. 26 USC 6227.

"(a) GENERAL RULE.—A partner may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the tax matters partner of a notice of final partnership administrative adjustment with respect to such taxable year.

"(b) REQUESTS BY TAX MATTERS PARTNER ON BEHALF OF PARTNERSHIP.—

"(1) SUBSTITUTED RETURN.—If the tax matters partner—

"(A) files a request for an administrative adjustment, and

"(B) asks that the treatment shown on the request be substituted for the treatment of partnership items on the partnership return to which the request relates,

the Secretary may treat the changes shown on such request as corrections of mathematical or clerical errors appearing on the partnership return.

"(2) REQUESTS NOT TREATED AS SUBSTITUTED RETURNS.—

"(A) IN GENERAL.—If the tax matters partner files an administrative adjustment request on behalf of the partnership which is not treated as a substituted return under paragraph (1), the Secretary may, with respect to all or any part of the requested adjustments—

"(i) without conducting any proceeding, allow or make to all partners the credits or refunds arising from the requested adjustments,

"(ii) conduct a partnership proceeding under this subchapter, or

"(iii) take no action on the request.

"(B) EXCEPTIONS.—Clause (i) of subparagraph (A) shall not apply with respect to a partner after the day on which the partnership items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231. *Post*, p. 663.

"(3) REQUEST MUST SHOW EFFECT ON DISTRIBUTIVE SHARES.—The tax matters partner shall furnish with any administrative adjustment request on behalf of the partnership revised schedules showing the effect of such request on the distributive shares of the partners and such other information as may be required under regulations.

"(c) OTHER REQUESTS.—If any partner files a request for an administrative adjustment (other than a request described in subsection (b)), the Secretary may—

"(1) process the request in the same manner as a claim for credit or refund with respect to items which are not partnership items,

"(2) assess any additional tax that would result from the requested adjustments,

"(3) mail to the partner, under subparagraph (A) of section 6231(b)(1) (relating to items becoming nonpartnership items), a notice that all partnership items of the partner for the partnership taxable year to which such request relates shall be treated as nonpartnership items, or

"(4) conduct a partnership proceeding.

26 USC 6228.

"SEC. 6228. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) REQUEST ON BEHALF OF PARTNERSHIP.—

"(1) IN GENERAL.—If any part of an administrative adjustment request filed by the tax matters partner under subsection (b) of section 6227 is not allowed by the Secretary, the tax matters partner may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(A) the Tax Court,

"(B) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(C) the Claims Court.

"(2) PERIOD FOR FILING PETITION.—

"(A) IN GENERAL.—A petition may be filed under paragraph (1) with respect to partnership items for a partnership taxable year only—

"(i) after the expiration of 6 months from the date of filing of the request under section 6227, and

"(ii) before the date which is 2 years after the date of such request.

"(B) NO PETITION AFTER NOTICE OF BEGINNING OF ADMINISTRATIVE PROCEEDING.—No petition may be filed under paragraph (1) after the day the Secretary mails to the partnership a notice of the beginning of an administrative proceeding with respect to the partnership taxable year to which such request relates.

"(C) FAILURE BY SECRETARY TO ISSUE TIMELY NOTICE OF ADJUSTMENT.—If the Secretary—

"(i) mails the notice referred to in subparagraph (B) before the expiration of the 2-year period referred to in clause (ii) of subparagraph (A), and

"(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (B) shall cease to apply with respect to such request, and the 2-year period referred to in clause (ii) of subparagraph (A) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

"(D) EXTENSION OF TIME.—The 2-year period described in subparagraph (A)(ii) shall be extended for such period as may be agreed upon in writing between the tax matters partner and the Secretary.

"(3) COORDINATION WITH ADMINISTRATIVE ADJUSTMENT.—

"(A) ADMINISTRATIVE ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this subsection after

the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under subsection (b) of section 6227 relates.

"(B) ADMINISTRATIVE ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under section 6227 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6226 with respect to that administrative adjustment, except that subsection (e) of section 6226 shall not apply.

"(C) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of final partnership administrative adjustment for the partnership taxable year shall be taken into account under subparagraphs (A) and (B) only if such notice is mailed before the expiration of the period prescribed by section 6229 for making assessments of tax attributable to partnership items for such taxable year.

"(4) PARTNERS TREATED AS PARTY TO ACTION.—

"(A) IN GENERAL.—If an action is brought by the tax matters partner under paragraph (1) with respect to any request for an adjustment of a partnership item for any taxable year—

"(i) each person who was a partner in such partnership at any time during the partnership taxable year involved shall be treated as a party to such action, and

"(ii) the court having jurisdiction of such action shall allow each such person to participate in the action.

"(B) PARTNERS MUST HAVE INTEREST IN OUTCOME.—For purposes of subparagraph (A), rules similar to the rules of paragraph (1) of section 6226(d) shall apply.

"(5) SCOPE OF JUDICIAL REVIEW.—Except in the case described in subparagraph (B) of paragraph (3), a court with which a petition is filed in accordance with this subsection shall have jurisdiction to determine only those partnership items to which the part of the request under section 6227 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the tax matters partner.

"(6) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. Only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this subsection.

"(b) OTHER REQUESTS.—

"(1) NOTICE PROVIDING THAT ITEMS BECOME NONPARTNERSHIP ITEMS.—If the Secretary mails to a partner, under subparagraph (A) of section 6231(b)(1) (relating to items ceasing to be partnership items), a notice that all partnership items of the partner for the partnership taxable year to which a timely request for administrative adjustment under subsection (c) of section 6227 relates shall be treated as nonpartnership items—

"(A) such request shall be treated as a claim for credit or refund of an overpayment attributable to nonpartnership items, and

"(B) the partner may bring an action under section 7422 with respect to such claim at any time within 2 years of the mailing of such notice.

"(2) OTHER CASES.—

"(A) IN GENERAL.—If the Secretary fails to allow any part of an administrative adjustment request filed under subsection (c) of section 6227 by a partner and paragraph (1) does not apply—

"(i) such partner may, pursuant to section 7422, begin a civil action for refund of any amount due by reason of the adjustments described in such part of the request, and

"(ii) on the beginning of such civil action, the partnership items of such partner for the partnership taxable year to which such part of such request relates shall be treated as nonpartnership items for purposes of this subchapter.

"(B) PERIOD FOR FILING PETITION.—

"(i) IN GENERAL.—An action may be begun under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year only—

"(I) after the expiration of 6 months from the date of filing of the request under section 6227, and

"(II) before the date which is 2 years after the date of filing of such request.

"(ii) EXTENSION OF TIME.—The 2-year period described in subclause (II) of clause (i) shall be extended for such period as may be agreed upon in writing between the partner and the Secretary.

"(C) ACTION BARRED AFTER PARTNERSHIP PROCEEDING HAS BEGUN.—No petition may be filed under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year after the Secretary mails to the partnership a notice of the beginning of a partnership proceeding with respect to such year.

"(D) FAILURE BY SECRETARY TO ISSUE TIMELY NOTICE OF ADJUSTMENT.—If the Secretary—

"(i) mails the notice referred to in subparagraph (C) before the expiration of the 2-year period referred to in clause (i) (II) of subparagraph (B), and

"(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (C) shall cease to apply with respect to such request, and the 2-year period referred to in clause (i) (II) of subparagraph (B) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

"SEC. 6229. PERIOD OF LIMITATIONS FOR MAKING ASSESSMENTS. 26 USC 6229.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the period for assessing any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (or affected item) for a partnership taxable year shall not expire before the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—

"(1) IN GENERAL.—The period described in subsection (a) (including an extension period under this subsection) may be extended—

"(A) with respect to any partner, by an agreement entered into by the Secretary and such partner, and

"(B) with respect to all partners, by an agreement entered into by the Secretary and the tax matters partner (or any other person authorized by the partnership in writing to enter into such an agreement),

before the expiration of such period.

"(2) COORDINATION WITH SECTION 6501(c)(4).—Any agreement under section 6501(c)(4) shall apply with respect to the period described in subsection (a) only if the agreement expressly provides that such agreement applies to tax attributable to partnership items.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—If any partner has, with the intent to evade tax, signed or participated directly or indirectly in the preparation of a partnership return which includes a false or fraudulent item—

"(A) in the case of partners so signing or participating in the preparation of the return, any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for the partnership taxable year to which the return relates may be assessed at any time, and

"(B) in the case of all other partners, subsection (a) shall be applied with respect to such return by substituting '6 years' for '3 years'.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, any tax attributable to a partnership item (or affected item) arising in such year may be assessed at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAKES ADMINISTRATIVE ADJUSTMENT.—If notice of a final partnership administrative adjustment with respect to any taxable year is mailed to the tax matters

partner, the running of the period specified in subsection (a) (as modified by other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6226 (and, if an action with respect to such administrative adjustment is brought during such period, until the decision of the court in such action becomes final), and

"(2) for 1 year thereafter.

"(e) UNIDENTIFIED PARTNER.—If—

"(1) the name, address, and taxpayer identification number of a partner are not furnished on the partnership return for a partnership taxable year, and

"(2)(A) the Secretary, before the expiration of the period otherwise provided under this section with respect to such partner, mails to the tax matters partner the notice specified in paragraph (2) of section 6223(a) with respect to such taxable year, or

"(B) the partner has failed to comply with subsection (b) of section 6222 (relating to notification of inconsistent treatment) with respect to any partnership item for such taxable year,

the period for assessing any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for such taxable year shall not expire with respect to such partner before the date which is 1 year after the date on which the name, address, and taxpayer identification number of such partner are furnished to the Secretary.

"(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If, before the expiration of the period otherwise provided in this section for assessing any tax imposed by subtitle A with respect to the partnership items of a partner for the partnership taxable year, such items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, the period for assessing any tax imposed by subtitle A which is attributable to such items (or any item affected by such items) shall not expire before the date which is 1 year after the date on which the items become nonpartnership items.

26 USC 6230.

"SEC. 6230. ADDITIONAL ADMINISTRATIVE PROVISIONS.

"(a) NORMAL DEFICIENCY PROCEEDINGS DO NOT APPLY TO COMPUTATIONAL ADJUSTMENTS.—Subchapter B of this chapter shall not apply to the assessment or collection of any computational adjustment.

"(b) MATHEMATICAL AND CLERICAL ERRORS APPEARING ON PARTNERSHIP RETURN.—

"(1) IN GENERAL.—Section 6225 shall not apply to any adjustment necessary to correct a mathematical or clerical error (as defined in section 6213(g)(2)) appearing on the partnership return.

"(2) EXCEPTION.—Paragraph (1) shall not apply to a partner if, within 60 days after the day on which notice of the correction of the error is mailed to the partner, such partner files with the Secretary a request that the correction not be made.

"(c) CLAIMS ARISING OUT OF ERRONEOUS COMPUTATIONS, ETC.—

"(1) IN GENERAL.—A partner may file a claim for refund on the grounds that—

"(A) the Secretary erroneously computed any computational adjustment necessary—

"(i) to make the partnership items on the partner's return consistent with the treatment of the partnership items on the partnership return, or

"(ii) to apply to the partner a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a), or

"(B) the Secretary failed to allow a credit or to make a refund to the partner in the amount of the overpayment attributable to the application to the partner of a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a) (or erroneously computed the amount of any such credit or refund).

"(2) TIME FOR FILING CLAIM.—

"(A) UNDER PARAGRAPH (1)(A).—Any claim under paragraph (1)(A) shall be filed within 6 months after the day on which the Secretary mails the notice of computational adjustment to the partner.

"(B) UNDER PARAGRAPH (1)(B).—Any claim under paragraph (1)(B) shall be filed within 2 years after whichever of the following days is appropriate:

"(i) the day on which the settlement is entered into,

"(ii) the day on which the period during which an action may be brought under section 6226 with respect to the final partnership administrative adjustment expires, or

"(iii) the day on which the decision of the court becomes final.

"(3) SUIT IF CLAIM NOT ALLOWED.—If any portion of a claim under paragraph (1) is not allowed, the partner may bring suit with respect to such portion within the period specified in subsection (a) of section 6532 (relating to periods of limitations on refund suits).

"(4) NO REVIEW OF SUBSTANTIVE ISSUES.—For purposes of any claim or suit under this subsection, the treatment of partnership items on the partnership return, under the settlement, under the final partnership administrative adjustment, or under the decision of the court (whichever is appropriate) shall be conclusive.

"(d) SPECIAL RULES WITH RESPECT TO CREDITS OR REFUNDS ATTRIBUTABLE TO PARTNERSHIP ITEMS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no credit or refund of an overpayment attributable to a partnership item (or an affected item) for a partnership taxable year shall be allowed or made to any partner after the expiration of the period of limitation prescribed in section 6229 with respect to such partner for assessment of any tax attributable to such item.

"(2) ADMINISTRATIVE ADJUSTMENT REQUEST.—If a request for an administrative adjustment under section 6227 with respect to a partnership item is timely filed, credit or refund of any overpayment attributable to such partnership item (or an affected item) may be allowed or made at any time before the expiration of the period prescribed in section 6228 for bringing suit with respect to such request.

"(3) CLAIM UNDER SUBSECTION (c).—If a timely claim is filed under subsection (c) for a credit or refund of an overpayment attributable to a partnership item (or affected item), credit or refund of such overpayment may be allowed or made at any time before the expiration of the period specified in section 6532 (relating to periods of limitations on suits) for bringing suit with respect to such claim.

"(4) TIMELY SUIT.—Paragraph (1) shall not apply to any credit or refund of any overpayment attributable to a partnership item (or an item affected by such partnership item) if a partner brings a timely suit with respect to a timely administrative adjustment request under section 6228 or a timely claim under subsection (c) relating to such overpayment.

"(5) OVERPAYMENTS REFUNDED WITHOUT REQUIREMENT THAT PARTNER FILE CLAIM.—In the case of any overpayment by a partner which is attributable to a partnership item (or an affected item) and which may be refunded under this subchapter, to the extent practicable credit or refund of such overpayment shall be allowed or made without any requirement that the partner file a claim therefor.

"(6) SUBCHAPTER B OF CHAPTER 66 NOT APPLICABLE.—Subchapter B of chapter 66 (relating to limitations on credit or refund) shall not apply to any credit or refund of an overpayment attributable to a partnership item (or an affected item).

26 USC 6511.

"(e) TAX MATTERS PARTNER REQUIRED TO FURNISH NAMES OF PARTNERS TO SECRETARY.—If the Secretary mails to any partnership the notice specified in paragraph (1) of section 6223(a) with respect to any partnership taxable year, the tax matters partner shall furnish to the Secretary the name, address, profits interest, and taxpayer identification number of each person who was a partner in such partnership at any time during such taxable year. If the tax matters partner later discovers that the information furnished to the Secretary was incorrect or incomplete, the tax matters partner shall furnish such revised or additional information as may be necessary.

"(f) FAILURE OF TAX MATTERS PARTNER, ETC., TO FULFILL RESPONSIBILITY DOES NOT AFFECT APPLICABILITY OF PROCEEDING.—The failure of the tax matters partner, a pass-thru partner, the representative of a notice group, or any other representative of a partner to provide any notice or perform any act required under this subchapter or under regulations prescribed under this subchapter on behalf of such partner does not affect the applicability of any proceeding or adjustment under this subchapter to such partner.

"(g) DATE DECISION OF COURT BECOMES FINAL.—For purposes of section 6229(d)(1) and section 6230(c)(2)(B), the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(h) EXAMINATION AUTHORITY NOT LIMITED.—Nothing in this subchapter shall be construed as limiting the authority granted to the Secretary under section 7602.

Ante, p. 622.

"(i) TIME AND MANNER OF FILING STATEMENTS, MAKING ELECTIONS, ETC.—Except as otherwise provided in this subchapter, each—

"(1) statement,

"(2) election,

"(3) request, and

"(4) furnishing of information,

shall be filed or made at such time, in such manner, and at such place as may be prescribed in regulations.

"(j) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6226 and 6228, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter. Any reference in this subchapter to regulations is a reference to regulations prescribed by the Secretary.

"(l) COURT RULES.—Any action brought under any provision of this subchapter shall be conducted in accordance with such rules of practice and procedure as may be prescribed by the Court in which the action is brought.

"SEC. 6231. DEFINITIONS AND SPECIAL RULES. 26 USC 6231.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) PARTNERSHIP.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'partnership' means any partnership required to file a return under section 6031(a).

"(B) EXCEPTION FOR SMALL PARTNERSHIPS.—

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership if—

"(I) such partnership has 10 or fewer partners each of whom is a natural person (other than a nonresident alien) or an estate, and

"(II) each partner's share of each partnership item is the same as his share of every other item.

For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.

"(ii) ELECTION TO HAVE SUBCHAPTER APPLY.—A partnership (within the meaning of subparagraph (A)) may for any taxable year elect to have clause (i) not apply. Such election shall apply for such taxable year and all subsequent taxable years unless revoked with the consent of the Secretary.

"(2) PARTNER.—The term 'partner' means—

"(A) a partner in the partnership, and

"(B) any other person whose income tax liability under subtitle A is determined in whole or in part by taking into account directly or indirectly partnership items of the partnership.

"(3) PARTNERSHIP ITEM.—The term 'partnership item' means, with respect to a partnership, any item required to be taken into account for the partnership's taxable year under any provision of subtitle A to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the partnership level than at the partner level.

"(4) NONPARTNERSHIP ITEM.—The term 'nonpartnership item' means an item which is (or is treated as) not a partnership item.

"(5) AFFECTED ITEM.—The term 'affected item' means any item to the extent such item is affected by a partnership item.

"(6) COMPUTATIONAL ADJUSTMENT.—The term 'computational adjustment' means the change in the tax liability of a partner which properly reflects the treatment under this subchapter of

a partnership item. All adjustments required to apply the results of a proceeding with respect to a partnership under this subchapter to an indirect partner shall be treated as computational adjustments.

"(7) TAX MATTERS PARTNER.—The tax matters partner of any partnership is—

"(A) the general partner designated as the tax matters partner as provided in regulations, or

"(B) if there is no general partner who has been so designated, the general partner having the largest profits interest in the partnership at the close of the taxable year involved (or, where there is more than 1 such partner, the 1 of such partners whose name would appear first in an alphabetical listing).

If there is no general partner designated under subparagraph (A) and the Secretary determines that it is impracticable to apply subparagraph (B), the partner selected by the Secretary shall be treated as the tax matters partner.

"(8) NOTICE PARTNER.—The term 'notice partner' means a partner who, at the time in question, would be entitled to notice under subsection (a) of section 6223 (determined without regard to subsections (b)(2) and (e)(1)(B) thereof).

"(9) PASS-THRU PARTNER.—The term 'pass-thru partner' means a partnership, estate, trust, electing small business corporation, nominee, or other similar person through whom other persons hold an interest in the partnership with respect to which proceedings under this subchapter are conducted.

"(10) INDIRECT PARTNER.—The term 'indirect partner' means a person holding an interest in a partnership through 1 or more pass-thru partners.

"(11) 5-PERCENT GROUP.—A 5-percent group is a group of partners who for the partnership taxable year involved had profits interests which aggregated 5 percent or more.

"(12) HUSBAND AND WIFE.—Except to the extent otherwise provided in regulations, a husband and wife who have a joint interest in a partnership shall be treated as 1 person.

"(b) ITEMS CEASE TO BE PARTNERSHIP ITEMS IN CERTAIN CASES.—

"(1) IN GENERAL.—For purposes of this subchapter, the partnership items of a partner for a partnership taxable year shall become nonpartnership items as of the date—

"(A) the Secretary mails to such partner a notice that such items shall be treated as nonpartnership items,

"(B) the partner files suit under section 6228(b) after the Secretary fails to allow an administrative adjustment request with respect to any of such items,

"(C) the Secretary enters into a settlement agreement with the partner with respect to such items, or

"(D) such change occurs under subsection (e) of section 6223 (relating to effect of Secretary's failure to provide notice) or under subsection (c) of this section.

"(2) CIRCUMSTANCES IN WHICH NOTICE IS PERMITTED.—The Secretary may mail the notice referred to in subparagraph (A) of paragraph (1) to a partner with respect to partnership items for a partnership taxable year only if—

"(A) such partner—

"(i) has complied with subparagraph (B) of section 6222(b)(1) (relating to notification of inconsistent treatment) with respect to one or more of such items, and

"(ii) has not, as of the date on which the Secretary mails the notice, filed a request for administrative adjustments which would make the partner's treatment of the item or items with respect to which the partner complied with subparagraph (B) of section 6222(b)(1) consistent with the treatment of such item or items on the partnership return, or

"(B)(i) such partner has filed a request under section 6227(b) for administrative adjustment of one or more of such items, and

"(ii) the adjustments requested would not make such partner's treatment of such items consistent with the treatment of such items on the partnership return.

"(3) NOTICE MUST BE MAILED BEFORE BEGINNING OF PARTNERSHIP PROCEEDING.—Any notice to a partner under subparagraph (A) of paragraph (1) with respect to partnership items for a partnership taxable year shall be mailed before the day on which the Secretary mails to the tax matters partner a notice of the beginning of an administrative proceeding at the partnership level with respect to such items.

"(c) REGULATIONS WITH RESPECT TO CERTAIN SPECIAL ENFORCEMENT AREAS.—

"(1) APPLICABILITY OF SUBSECTION.—This subsection applies in the case of—

"(A) assessments under section 6851 (relating to termination assessments of income tax) or section 6861 (relating to jeopardy assessments of income, estate, gift, and certain excise taxes),

"(B) criminal investigations,

"(C) indirect methods of proof of income,

"(D) foreign partnerships, and

"(E) other areas that the Secretary determines by regulation to present special enforcement considerations.

"(2) ITEMS MAY BE TREATED AS NONPARTNERSHIP ITEMS.—To the extent that the Secretary determines and provides by regulations that to treat items as partnership items will interfere with the effective and efficient enforcement of this title in any case described in paragraph (1), such items shall be treated as nonpartnership items for purposes of this subchapter.

"(3) SPECIAL RULES.—The Secretary may prescribe by regulation such special rules as the Secretary determines to be necessary to achieve the purposes of this subchapter in any case described in paragraph (1).

"(d) TIME FOR DETERMINING PARTNER'S PROFITS INTEREST IN PARTNERSHIP.—

"(1) IN GENERAL.—For purposes of section 6223(b) (relating to special rules for partnerships with more than 100 partners) and paragraph (11) of subsection (a) (relating to 5-percent group), the interest of a partner in the profits of a partnership for a partnership taxable year shall be determined—

"(A) in the case of a partner whose entire interest in the partnership is liquidated, sold, or exchanged during such partnership taxable year, as of the moment immediately before such liquidation, sale, or exchange, or

"(B) in the case of any other partner, as of the close of the partnership taxable year.

Regulations. "(2) INDIRECT PARTNERS.—The Secretary shall prescribe regulations consistent with the principles of paragraph (1) to be applied in the case of indirect partners.

"(e) EFFECT OF JUDICIAL DECISIONS IN CERTAIN PROCEEDINGS.—

"(1) DETERMINATIONS AT PARTNER LEVEL.—No judicial determination with respect to the income tax liability of any partner not conducted under this subchapter shall be a bar to any adjustment in such partner's income tax liability resulting from—

"(A) a proceeding with respect to partnership items under this subchapter, or

"(B) a proceeding with respect to items which become nonpartnership items—

"(i) by reason of 1 or more of the events described in subsection (b), and

"(ii) after the appropriate time for including such items in any other proceeding with respect to nonpartnership items.

"(2) PROCEEDINGS UNDER SECTION 6228(a).—No judicial determination in any proceeding under subsection (a) of section 6228 with respect to any partnership item shall be a bar to any adjustment in any other partnership item.

"(f) SPECIAL RULE FOR LOSSES AND CREDITS OF FOREIGN PARTNERSHIPS.—Except to the extent otherwise provided in regulations, in the case of any partnership the tax matters partner of which resides outside the United States or the books of which are maintained outside the United States, no loss or credit shall be allowable to any partner unless section 6031 is complied with for the partnership's taxable year in which such deduction or credit arose at such time as the Secretary prescribes by regulations.

26 USC 6232. **"SEC. 6232. EXTENSION OF SUBCHAPTER TO WINDFALL PROFIT TAX.**

"(a) INCLUSION AS PARTNERSHIP ITEM.—For purposes of applying this subchapter to the tax imposed by chapter 45 (relating to the windfall profit tax), the term 'partnership item' means any item relating to the determination of the tax imposed by chapter 45 to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the partnership level than at the partner level.

"(b) SEPARATE APPLICATION.—This subchapter shall be applied separately with respect to—

"(1) partnership items described in subsection (a), and

"(2) partnership items described in section 6231(a)(3).

"(c) PARTNERSHIP AUTHORIZED TO ACT FOR PARTNERS.—

26 USC 4986 *et seq.* "(1) IN GENERAL.—For purposes of chapter 45 and so much of this subtitle as relates to chapter 45, to the extent and in the manner provided in regulations, a partnership shall be treated as authorized to act for each partner with respect to the determination, assessment, or collection of the tax imposed by chapter 45.

"(2) PARTNERS ENTITLED TO 5 PERCENT OR MORE OF INCOME MAY ELECT OUT OF SUBSECTION.—Paragraph (1) shall not apply to any partnership if partners entitled to 5 percent or more of the income of the partnership elect (at the time and in the manner

provided in regulations) not to have paragraph (1) apply to the partnership.

"(3) PARTNER'S RIGHTS PRESERVED.—Nothing in paragraph (1) shall be construed to take away from any person any right granted to such person by the foregoing sections of this subchapter."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following:

"SUBCHAPTER C. Tax treatment of partnership items."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 702 (relating to income and credits of partner) is amended by inserting at the end thereof the following new subsection: 26 USC 702.

"(d) CROSS REFERENCE.—

"For rules relating to procedures for determining the tax treatment of partnership items see subchapter C of chapter 63 (section 6221 and following)."

(2) Subsection (h) of section 6213 (relating to certain cross references with respect to restrictions on assessment) is amended by inserting at the end thereof the following new paragraph: 26 USC 6213.

"(4) For provision that this subchapter shall not apply in the case of computational adjustments attributable to partnership items, see section 6230(a)."

(3) Section 6216 (relating to certain cross references with respect to assessments) is amended by inserting at the end thereof the following new paragraph: 26 USC 6216.

"(4) For procedures relating to partnership items, see subchapter C."

(4) Section 6422 (relating to certain cross references with respect to credits and refunds) is amended by inserting at the end thereof the following new paragraph: 26 USC 6422.

"(15) For special rules in the case of a credit or refund attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230."

(5) Subsection (o) of section 6501 (relating to limitations on assessment and collection) is amended to read as follows: 26 USC 6501.

"(o) SPECIAL RULES FOR PARTNERSHIP ITEMS.—For extension of period in the case of partnership items (as defined in section 6231(a)(3)), see section 6229."

(6) Section 6504 (relating to certain cross references with respect to limitations on assessments) is amended by inserting at the end thereof the following new paragraph: 26 USC 6504.

"(12) Assessments of tax attributable to partnership items, see section 6229."

(7) Subsection (g) of section 6511 (relating to limitations on credit or refund) is amended to read as follows: 26 USC 6511.

"(g) SPECIAL RULE FOR CLAIMS WITH RESPECT TO PARTNERSHIP ITEMS.—In the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsections *Ante*, pp. 663, 655.

(c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter."

26 USC 6512. (8) Subsection (a) of section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by inserting at the end thereof the following new paragraph:

"(4) As to overpayments attributable to partnership items, in accordance with subchapter C of chapter 63."

(9) Paragraph (2) of section 6512(b) (relating to limit on amount of credit or refund) is amended by striking out "(c), (d), or (g)" each place it appears and inserting in lieu thereof "(c), or (d)".

26 USC 6515. (10) Section 6515 (relating to certain cross references with respect to limitations on credit or refund) is amended by inserting at the end thereof the following new paragraph:

"(7) Refunds or credits attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230."

26 USC 7422. (11) Section 7422 (relating to civil actions for refund) is amended by redesignating subsection (h) thereof as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULE FOR ACTIONS WITH RESPECT TO PARTNERSHIP ITEMS.—No action may be brought for a refund attributable to partnership items (as defined in section 6131(a)(3)) except as provided in section 6228(b) or section 6230(c)."

Ante, p. 663.
Ante, p. 656.

26 USC 7451. (12) Section 7451 (relating to fee for filing petition) is amended by adding "or for judicial review under section 6226 or section 6228(a)" at the end thereof.

26 USC 7456. (13) Subsection (c) of section 7456 (relating to Tax Court Commissioners) is amended by inserting "6226, 6228(a)," before "7428".

26 USC 7459. (14) Subsection (c) of section 7459 (relating to date of decision) is amended by inserting "or in the case of an action brought under section 6226 or section 6228(a)" after "or under section 7428".

26 USC 7482. (15) Paragraph (1) of section 7482(b) (relating to venue for review of Tax Court decisions) is amended—

(A) by striking out "or" at the end of subparagraph (D),

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or",

(C) by adding after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6226 or 6228(a), the principal place of business of the partnership,", and

(D) by inserting ", or the petition under section 6226 or 6228(a)," after "or 7477".

26 USC 7485. (16) Section 7485 (relating to bond to stay assessment and collection) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

"(b) BOND IN CASE OF APPEAL OF DECISION UNDER SECTION 6226 OR SECTION 6228(a).—The condition of subsection (a) shall be satisfied if a partner duly files notice of appeal from a decision under section 6226 or 6228(a) and on or before the time the notice of appeal is filed with the Tax Court, a bond in an amount fixed by the Tax Court is

filed, and with surety approved by the Tax Court, conditioned upon the payment of deficiencies attributable to the partnership items to which that decision relates as finally determined, together with any interest, additional amounts, or additions to the tax provided by law. Unless otherwise stipulated by the parties, the amount fixed by the Tax Court shall be based upon its estimate of the aggregate of such deficiencies."

(17) Subsection (e) of section 1346 of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant) is amended by striking out "section 7426 or section" and inserting in lieu thereof "section 6226, 6228(a), 7426, or".

(18)(A) Chapter 91 of title 28, United States Code (relating to Claims Court), is amended by adding at the end thereof the following new section:

"§ 1508. Jurisdiction for certain partnership proceedings 28 USC 1508.

"The Claims Court shall have jurisdiction to hear and to render judgment upon any petition under section 6226 or 6228(a) of the Internal Revenue Code of 1954." *Ante*, pp. 653, 656.

(B) The section analysis of chapter 91 of title 28, United States Code (relating to Claims Court) is amended by adding at the end thereof the following new item:

"1508. Jurisdiction for certain partnership proceedings."

SEC. 403. REQUIREMENT THAT STATEMENT BE FURNISHED TO PARTNER.

(a) GENERAL RULE.—Section 6031 (relating to return of partnership income) is amended by adding at the end thereof the following new subsection: 26 USC 6031.

"(b) COPIES TO PARTNERS.—Each partnership required to file a return under subsection (a) for any partnership taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a partner at any time during such taxable year a copy of such information shown on such return as may be required by regulations."

(b) CONFORMING AMENDMENT.—Section 6031 is amended by striking out "Every partnership" and inserting in lieu thereof the following:

"(a) GENERAL RULE.—Every partnership".

SEC. 404. RETURNS REQUIRED FROM ALL PARTNERSHIPS WITH UNITED STATES PARTNERS. 26 USC 6031 note.

Except as hereafter provided in regulations prescribed by the Secretary of the Treasury or his delegate, nothing in section 6031 of the Internal Revenue Code of 1954 shall be treated as excluding any partnership from the filing requirements of such section for any taxable year if the income tax liability under subtitle A of such Code of any United States person is determined in whole or in part by taking into account (directly or indirectly) partnership items of such partnership for such taxable year. 26 USC 1.

SEC. 405. RETURN REQUIREMENT FOR UNITED STATES PERSONS HAVING INTEREST IN FOREIGN PARTNERSHIPS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6046 the following new section:

26 USC 6046A.

"SEC. 6046A. RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS.

"(a) REQUIREMENT OF RETURN.—Any United States person, except to the extent otherwise provided by regulations—

"(1) who acquires any interest in a foreign partnership,

"(2) who disposes of any portion of his interest in a foreign partnership, or

"(3) whose proportional interest in a foreign partnership changes substantially,

shall file a return.

"(b) FORM AND CONTENTS OF RETURN.—Any return required by subsection (a) shall be in such form and set forth such information as the Secretary shall by regulations prescribe.

"(c) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed on or before the 90th day (or on or before such later day as the Secretary may by regulations prescribe) after the day on which the United States person becomes liable to file such return.

"(d) CROSS REFERENCE.—

"For provisions relating to penalties for violations of this section, see sections 6679 and 7203."

(b) PENALTY.—

26 USC 6679.

Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign corporations and acquisitions of their stock) is amended by striking out "section 6046" and inserting in lieu thereof "section 6046 or 6046A".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6046 the following new item:

"Sec. 6046A. Returns as to interests in foreign partnerships."

(2) The section heading of section 6679 is amended to read as follows:

"SEC. 6679. FAILURE TO FILE RETURNS WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS."

(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

"Sec. 6679. Failure to file returns with respect to foreign corporations or foreign partnerships."

26 USC 6231 note.

SEC. 406. SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS.

Subchapter C of chapter 63 of the Internal Revenue Code of 1954 (relating to tax treatment of partnership items), section 6031 of such Code (relating to returns of partnership income), and section 6046A of such Code (relating to returns as to interest in foreign partnerships) shall not apply to the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, and any organization which is a successor of either of such organizations.

26 USC 6221 note.

SEC. 407. EFFECTIVE DATES.

(a)(1) Except as provided in paragraph (2), the amendments made by sections 402, 403, and 404 shall apply to partnership taxable years beginning after the date of the enactment of this Act.

(2) Section 6232 of the Internal Revenue Code of 1954 shall apply to periods after December 31, 1982.

(3) The amendments made by sections 402, 403, and 404 shall apply to any partnership taxable year (or in the case of section 6232 of such Code, to any period) ending after the date of the enactment of this Act if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application.

(b) The amendments made by section 405 shall apply with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after the date of the enactment of this Act. 26 USC 6046A note.

TITLE V—AIRPORT AND AIRWAY IMPROVEMENT

Airport and Airway Improvement Act of 1982.

SECTION 501. SHORT TITLE. 49 USC 2201 note.

This title may be cited as the "Airport and Airway Improvement Act of 1982".

SEC. 502. DECLARATION OF POLICY. 49 USC 2201.

(a) IN GENERAL.—The Congress hereby finds and declares that—

(1) the safe operation of the airport and airway system will continue to be the highest aviation priority;

(2) the continuation of airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

(3) this title should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports and reliever heliports, for points where scheduled commercial air service is provided;

(4) this title should be administered in a manner consistent with a comprehensive airspace system plan to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining, to the extent possible under available funds and given other safety needs, a precision approach system and a full approach light system for each primary runway, grooving, or friction treatment of all primary and secondary runways, a nonprecision instrument approach for all secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, runway edge lighting and marking, and radar approach coverage for all airport terminal areas;

(5) all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and 103 of the Federal Aviation Act of 1958, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and preventing unjust and discriminatory practices; 49 USC 1302, 1303.

(6) reliever airports make an important contribution to the efficient operation of the airport and airway system, and special emphasis should be given to their development;

(7) aviation facilities should be constructed and operated with due regard to minimizing current and projected noise impacts on nearby communities;

(8) the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program; and

(9) it is in the national interest to develop in metropolitan areas an integrated system of airports designed to provide expeditious access and maximum safety.

(b) TRANSPORTATION PLANNING.—It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

49 USC 2202.

SEC. 503. DEFINITIONS.

(a) IN GENERAL.—As used in this title—

(1) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(2) "Airport development" means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, repairing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards; and

(ii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids (including, but not limited to, precision approach systems) used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;
(iv) aviation-related weather reporting equipment; or
(v) equipment to measure runway surface friction; and

(C) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in subparagraph (A) or (B) of this paragraph or to remove, mitigate, prevent, or limit the establishment of airport hazards.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Airport planning" means planning as defined by such regulations as the Secretary shall prescribe, and includes integrated airport system planning.

(5) "Commercial service airport" means a public airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

(6) "Government aircraft" means aircraft owned and operated by the United States.

(7) "Integrated airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of approaches, for airport development at public-use airports which are not primary airports.

(8) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(9) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

(10) "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States or political subdivisions concerned to engage in areawide planning for the areas in which assistance under this title is to be used.

(11) "Primary airport" means a commercial service airport which is determined by the Secretary to have .01 percent or

more of the total number of passengers enplaned annually at all commercial service airports.

(12) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(13) "Project costs" means any costs involved in accomplishing a project.

(14) "Project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(15) "Public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo.

(16) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(17) "Public-use airport" means—

(A) any public airport,

(B) any privately owned reliever airport, and

(C) any privately owned airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft,

which is used or to be used for public purposes.

(18) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a commercial service airport and providing more general aviation access to the overall community.

(19) "Reliever heliport" means a heliport designated by the Secretary as having the function of relieving congestion at a commercial service airport, by means of diverting potential fixed-wing enplaned passengers to helicopter carriers.

(20) "Secretary" means the Secretary of Transportation.

(21) "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this title, an application for financial assistance, and (B) any private owner of a public-use airport who submits to the Secretary, in accordance with this title, an application for financial assistance for such airport.

(22) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(23) "Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1954.

Ante, p. 565.

(24) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 509 of this title which is to be paid from funds made available for the purposes of this title.

(b) AMOUNTS MADE AVAILABLE.—Whenever in this title reference is made to the amount made available for a fiscal year under section 505 of this title, such reference shall mean the amount made available for obligation under subsection (a) of section 505 for that fiscal year as reduced or limited by any Act of Congress enacted after the date of enactment of this title.

SEC. 504. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS. 49 USC 2203.

(a) FORMULATION OF AIRPORT PLAN.—Not later than two years after the date of enactment of this title and every two years thereafter, the Secretary shall publish the status of the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe, efficient, and integrated system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. Airport development identified by this plan shall not be limited to the requirements of any classes or categories of public-use airports. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1) the rest of the transportation system in the particular area, (2) the forecasted technological developments in aeronautics, and (3) developments forecasted in other modes of intercity transportation. After the date of enactment of this title, the revised national airport system plan shall be known as the national plan of integrated airport systems.

(b) FORMULATION OF AIRWAY PLAN.—(1) The Administrator of the Federal Aviation Administration shall prepare (subject to the requirements of section 506(f) of this title) and submit to the Congress, not later than ninety days after the date of enactment of this title, a national airways system plan. The Administrator shall review, revise, and publish such plan before the beginning of each fiscal year thereafter. The plan shall set forth, for a ten-year period, the research, engineering, and development programs and the facilities and equipment considered by the Administrator necessary for a system of airways, air traffic services, and navigation aids which will meet the forecasted needs of civil aeronautics, meet requirements in support of the national defense as determined by the Secretary of Defense, and provide the highest degree of safety in air commerce. In addition, such plan shall set forth—

(A) for the first two years of the plan, detailed annual estimates of (i) the number, type, location, and cost of acquisition, operation, and maintenance of required facilities and services, (ii) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency, and (iii) manpower levels required for all the activities described in this subparagraph;

(B) for the third, fourth, and fifth years of the plan, estimates of the total cost of each major program for such three-year period, and any additional major research programs, acquisition of systems and facilities, and changes in manpower levels that may be required to meet long-range objectives and that may have significant impact on future funding requirements; and

(C) a ten-year investment plan which considers long-range objectives considered by the Administrator to be necessary to ensure that safety is given the highest priority in providing for a safe and efficient airway system and to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense.

Report to Congress.

(2) On or before the first day of April of each year the Secretary shall report to the Congress on the operations of the national airways system during the last completed fiscal year. The report shall include a review of the operations of the Federal Aviation Administration, including, but not limited to, a detailed report on programs intended to improve the safety of flight operations and the capacity and efficiency of the national airways system, any significant problems encountered in these programs, a summary of funds committed in each major program area, and a report on amounts appropriated but not expended for such programs.

(c) CONSULTATION WITH FEDERAL AND PUBLIC AGENCIES AND AVIATION COMMUNITY.—In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(d) CONSULTATION WITH DEPARTMENT OF DEFENSE.—(1) The Department of Defense shall make domestic military airports and airport facilities available for civil use to the maximum extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities will be available for civil use.

(2) Not later than 180 days after the date of enactment of this title, the Comptroller General shall submit to the Congress an evaluation of the feasibility of making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. With respect to those military airports determined to be most feasible for joint civil and military use, such evaluation shall include an estimate of the costs and the development requirements involved in making such airports available for joint civil and military use.

(3) Not later than 1 year after the date of enactment of this title, the Secretary of Defense and the Secretary of Transportation shall submit to the Congress a plan for making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. The plan shall recommend public-sector civil sponsors in the case of each joint use proposed in the plan.

49 USC 2204.

SEC. 505. AIRPORT IMPROVEMENT PROGRAM.

Grants.

(a) AIRPORT DEVELOPMENT AND AIRPORT PLANNING.—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project grants in accordance with the provisions of this title. The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $450,000,000 for fiscal year 1982; $1,050,000,000 for the fiscal years ending before October 1, 1983; $1,843,500,000 for the fiscal years ending before October 1, 1984; $2,755,500,000 for the fiscal years ending before October 1, 1985; $3,772,500,000 for the fiscal years ending before October 1, 1986; and $4,789,700,000 for the fiscal years ending before October 1, 1987.

49 USC 1711, 1713.
49 USC 2104.

(b) OBLIGATIONAL AUTHORITY.—(1) The Secretary is authorized to incur obligations to make grants from funds made available under subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 507(a) of this title. No such obligation shall be incurred by the Secretary after September 30, 1987, except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 508(a) of this title after such date.

(2) No obligation shall be incurred by the Secretary for airport development at a privately owned public-use airport unless the Secretary receives appropriate assurances that such airport will continue to function as a public-use airport during the economic life (which in no case shall be less than ten years) of any facility at such airport that was developed with Federal financial assistance under this title.

(c) NOISE ABATEMENT PROJECTS TO BE CONSIDERED AS AIRPORT DEVELOPMENT FOR FISCAL YEAR 1982.—For purposes of amounts apportioned for fiscal year 1982, airport development shall be considered to include any of the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(1) any acquisition or installation of the following items for improving noise compatibility at a public-use airport:

(A) noise suppressing equipment, physical barriers, or landscaping, for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport; and

(B) land, including land associated with future airport development, or any interest therein, or any easement through or other interest in airspace, necessary to insure that such land is used only for purposes which are compatible with the noise levels attributable to the operation of such airport; and

(2) any project to carry out an approved airport noise compatibility program, or part thereof, approved by the Secretary pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979. 49 USC 2104.

SEC. 506. AIRWAY IMPROVEMENT PROGRAM. 49 USC 2205.

(a) AIRWAY FACILITIES AND EQUIPMENT.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)), there is authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $261,000,000 for fiscal year 1982; $986,000,000 for the fiscal years ending before October 1, 1983; $2,379,000,000 for the fiscal years ending before October 1, 1984; $3,786,000,000 for the fiscal years ending before October 1, 1985; $5,163,000,000 for the fiscal years ending before October 1, 1986; and $6,327,000,000 for the fiscal years ending before October 1, 1987. Amounts appropriated under the authorizations in this subsection shall remain available until expended. Appropriation authorization.

(2) The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 shall be charged to appropriated funds available to the Secretary for that purpose pursuant to paragraph (1) of this subsection. 49 USC 1348.

Nothing in this title shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312 (49 U.S.C. 1353) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under section 312. For research, engineering and development, and demonstration projects and activities under section 312, there is authorized to be appropriated from the Trust Fund $72,000,000 for fiscal year 1982; $134,000,000 for fiscal year 1983 (of which not more than $16,800,000 is authorized to be appropriated for facilities, engineering and development); $286,000,000 for fiscal year 1984 (of which not more than $24,700,000 is authorized to be appropriated for facilities, engineering and development); $269,000,000 for fiscal year 1985 (of which not more than $23,100,000 is authorized to be appropriated for facilities, engineering and development); $215,000,000 for fiscal year 1986 (of which not more than $22,700,000 is authorized to be appropriated for facilities, engineering and development); and $193,000,000 for fiscal year 1987 (of which not more than $22,000,000 is authorized to be appropriated for facilities, engineering and development). Amounts appropriated under the authorizations in this subsection shall remain available until expended.

Appropriation authorization.

(c) OTHER EXPENSES.—(1) The balance of the moneys available in the Trust Fund may be appropriated for (A) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (B) direct costs incurred by the Secretary to flight check, operate, and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient manner.

(2) The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for fiscal year 1982 may not exceed $800,000,000, and for any fiscal year beginning after September 30, 1982, and ending before October 1, 1987, may not exceed the amount made available for purposes of section 505 for that fiscal year multiplied by a factor equal to 2.44 in the case of fiscal year 1983; 1.57 in the case of fiscal year 1984; 1.39 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; and 1.34 in the case of fiscal year 1987. The amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be reduced by an amount equal to two times the excess, if any, of (A) the portion of the amount authorized to be appropriated under subsection (a) of this section for such fiscal year which was not authorized to be appropriated for any previous fiscal year, over (B) the amount appropriated under such subsection for such fiscal year.

(d) WEATHER SERVICES.—The Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration from the funds authorized in subsection (c) for fiscal years beginning after September 30, 1982, for the cost of providing the Federal Aviation Administration with weather reporting services. Expenditures for the purposes of carrying out this subsection shall be limited to $26,700,000 for fiscal year 1983; $28,569,000 for fiscal year 1984;

$30,569,000 for fiscal year 1985; $32,709,000 for fiscal year 1986; and $34,998,000 for fiscal year 1987.

(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section. 49 USC 1301 note.

(2) Amounts equal to the amounts authorized for each fiscal year by section 505 of this title and subsections (a), (b), and (d) and the third sentence of section (c) of this section shall remain available in the Trust Fund until appropriated for the purposes described in such subsections.

(3) No amounts in the Trust Fund may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (c) of this section.

(4) No provision of law, except for a statute enacted after the date of enactment of this title which expressly limits the application of this paragraph, shall impair the authority of the Secretary to obligate to an airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to section 508(a) of this title, in addition to the amounts authorized for that fiscal year by section 505.

(5) No provision of law shall be construed as authorizing the Secretary to obligate or expend any amounts appropriated from the Trust Fund for the purposes described in subsection (c) in any fiscal year after September 30, 1987, unless the provision expressly amends the provisions of and the formulas in subsection (c) of this section.

(f) TRANSMITTAL OF BUDGET ESTIMATES.—Whenever the Administrator of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary, the President of the United States, or to the Office of Management and Budget pertaining to funds authorized in subsection (a) or (b) of this section, it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

SEC. 507. APPORTIONMENT OF FUNDS. 49 USC 2206.

(a) APPORTIONMENT.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for that year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

(1) PRIMARY AIRPORTS.—

(A) To the sponsor of each primary airport, as follows:

(i) $6 for each of the first fifty thousand passengers enplaned at that airport;

(ii) $4 for each of the next fifty thousand passengers enplaned at that airport;

(iii) $2 for each of the next four hundred thousand passengers enplaned at that airport; and

(iv) $0.50 for each additional passenger enplaned at that airport.

(B) In each of the fiscal years 1984 through 1987, the Secretary shall apportion an amount to the sponsor of each primary airport in addition to whatever amount is apportioned to such airport under the formula set forth in subparagraph (A). The additional apportionment shall be calculated by determining the amount such airport is to be apportioned under the formula in subparagraph (A) and then increasing that amount by 10 percent for fiscal year 1984, 20 percent for fiscal year 1985, 25 percent for fiscal year 1986, and 30 percent for fiscal year 1987.

(C) The Secretary shall not apportion less than $200,000 nor more than $12,500,000 under this paragraph to an airport sponsor for any primary airport for any fiscal year.

(D) In no event shall the total amount of all apportionments under this paragraph for any fiscal year exceed 50 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(E) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under this paragraph for such fiscal year shall not exceed 50 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(2) APPORTIONMENTS TO STATES.—To the States, there shall be apportioned for each of the fiscal years beginning after September 30, 1981, and ending before October 1, 1987, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

(A) INSULAR AREAS.—For airports other than primary airports, one percent of such amounts to Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) STATES.—For airports other than primary airports and other than airports described in section 508(d)(3), one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the population of each such State bears to the total population of all such States and one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the area of each such State bears to the total area of all such States. As used in this

paragraph, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

(3) DISCRETIONARY FUND.—Any amounts not apportioned under paragraphs (1), (2), and (4) of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary (subject to the limitations set forth in section 508(d) of this title) for such grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

(4) Notwithstanding any other provision of this subsection, for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act. In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under paragraph (1) of this subsection. In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year. Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established in paragraph (3) of this subsection.

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(b) PASSENGERS ENPLANED.—For purposes of determining apportionments for any fiscal year under paragraph (1) of subsection (a) of this section, the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

SEC. 508. USE OF APPORTIONED AND DISCRETIONARY FUNDS; MISCELLANEOUS CONDITIONS. 49 USC 2207.

(a) DURATION OF AVAILABILITY OF APPORTIONED AMOUNTS.—Each amount apportioned under paragraph (1), (2), or (4) of section 507(a) of this title shall be available for obligation under such apportionment during the fiscal year for which it was first authorized to be obligated and the two fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 507(a)(3) of this title.

(b) TRANSFER OF CERTAIN APPORTIONMENTS OF PRIMARY AIRPORTS.—(1) Funds apportioned to a sponsor under section 507(a)(1) of this title may be used for any of the purposes for which funds are made available under section 505 at any public-use airport of such sponsor which is in the national plan of integrated airport systems.

(2) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that the Secretary make the waived amount available for any of the purposes

for which funds are made available under section 505 to the sponsor of another public-use airport which is a part of the same State or geographical area as the airport of the sponsor making the waiver.

(c) STATES.—Funds apportioned to a State under section 507(a)(2) shall be available for any of the purposes for which funds are made available under section 505 to airports described in section 507(a)(2) which are located in such State. Each sponsor of such an airport may apply to the Secretary for grants from funds apportioned to such State.

(d) GENERAL LIMITATIONS.—(1) Not less than 10 percent of the funds made available under section 505 for any fiscal year shall be distributed to reliever airports during such fiscal year.

(2) Not less than 8 percent of the funds made available under section 505 for any fiscal year shall be obligated during such fiscal year (A) for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act, and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title.

49 USC 1711, 1713.

49 USC 2104.

(3) Not less than 5.5 percent of the funds made available under section 505 for any fiscal year shall be distributed during such fiscal year to—

(A) commercial service airports which are not primary airports,

(B) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) of such Act applied during fiscal year 1981, and

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(C) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(II) of such Act applied during fiscal year 1981.

No amounts obligated from the funds apportioned under paragraph (4) of section 507(a) shall be counted as part of the 5.5 percent required to be distributed under this paragraph for each fiscal year.

(4) Not less than one percent of the funds made available under section 505 for any fiscal year shall be distributed to planning agencies for the purpose of integrated airport system planning during such fiscal year.

(5) If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.

49 USC 2208.

SEC. 509. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.

(a) SUBMISSION.—(1) Subject to the provisions of this subsection, (A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit to the Secretary a project grant application for one or more projects, in a form and containing such

information as the Secretary may prescribe, setting forth the project proposed to be undertaken. No project grant application shall propose airport development or airport planning except in connection with public-use airports included in the current national plan of integrated airport systems prepared pursuant to section 504 of this title. Nothing in this subsection shall authorize the submission of a project grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including, but not limited to, standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(2) Notwithstanding any provision of this title, the sponsor of any airport may submit a project-grant application for airport development (including noise compatibility projects) to the Secretary within 180 days after the date of enactment of this title, and the Secretary may incur obligations to fund such projects, in accordance with the provisions of this title, from funds available for obligation pursuant to section 507(a), if—

(A) a project-grant application or preapplication for such project was submitted to the Secretary before September 30, 1980; or

(B) the project was carried out after September 30, 1980, and before the date of enactment of this title.

(b) APPROVAL.—(1) No project grant application may be approved by the Secretary unless the Secretary is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area surrounding the airport and will contribute to the accomplishment of the purposes of this title;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this title;

(C) the project will be completed without undue delay;

(D) the sponsor which submitted the project grant application has legal authority to engage in the project as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this title have been or will be met.

(2) No project grant application for airport development may be approved by the Secretary unless the sponsor, a public agency, or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(3) No project grant application for airport development may be approved by the Secretary which does not include provision for (A) land required for the installation of approach light systems; (B) touchdown zone and centerline runway lighting; or (C) high intensity runway lighting, when it is determined by the Secretary that any such item is required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(4) No project grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has

been given to the interest of communities in or near which the project may be located.

(5) It is declared to be national policy that airport development projects authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(6)(A) No project grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community.

(B) When hearings are held under subparagraph (A) of this paragraph, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(7)(A) No project grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

(B) The Secretary shall condition approval of any such project grant application on compliance during construction and operation with applicable air and water quality standards.

(8) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which paragraph (7)(A) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if—

(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for "stage 2" aircraft in section 36.1 of title 14, Code of Federal Regulations, to

be replaced by aircraft operations involving aircraft that do comply with such standards; and

(B) the project complies with all other statutory and administrative requirements imposed under this title.

(9) In establishing priorities for the distribution of funds available pursuant to section 507 of this title, the Secretary may give priority to approval of projects that are consistent with integrated airport system plans.

(c) STATE STANDARDS.—The Secretary is authorized to approve standards, other than standards for safety of approaches, established by a State for airport development at public-use airports in such State which are not primary airports, and, upon such approval, such State standards shall be the standards applicable to such airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

(d) ACCEPTANCE OF CERTIFICATION.—The Secretary is authorized in connection with any project to require a certification from a sponsor that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this title in connection with such project. Acceptance by the Secretary of a certification from a sponsor may be rescinded by the Secretary at any time. Nothing in this subsection shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.). 49 USC 1653. 42 USC 2000d.

(e) REQUIREMENT OF NOTICE.—Each sponsor to which funds are apportioned under section 507(a)(1) of this title shall notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted.

SEC. 510. UNITED STATES SHARE OF PROJECT COSTS. 49 USC 2209.

(a) GENERAL PROVISION.—Except as otherwise provided in this title, the United States share of allowable project costs payable on account of any project contained in an approved project grant application submitted in accordance with this title shall be 90 percent of the allowable project costs.

(b) PROJECTS AT CERTAIN PRIMARY AIRPORTS.—In the case of primary airports enplaning 0.25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on account of any project contained in an approved project grant application shall be 75 per centum of the allowable project costs.

(c) PROJECTS IN PUBLIC LAND STATES.—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the

total area of all lands therein, the United States share under subsection (a) or (b) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in that State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (A) the percentage share determined under subsection (a) or (b) of this section, or (B) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970.

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49 USC 2210.

SEC. 511. PROJECT SPONSORSHIP.

(a) SPONSORSHIP.—As a condition precedent to approval of an airport development project contained in a project grant application submitted under this title, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities, and (C) each air carrier using such airport shall have the right to service itself or to use any fixed-base operator that is authorized by the airport or permitted by the airport to serve any air carrier at such airport;

(2) there will be no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport;

(3) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(4) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards

and by preventing the establishment or creation of future airport hazards;

(5) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(6) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(7) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(8) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(9) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this title or under the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

49 USC 1101 note, *post*, p. 695.

(10) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(11) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(12) all revenues generated by the airport, if it is a public airport, will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property: *Provided, however,* That if covenants or assurances in debt obligations previously issued by the owner or operator of the airport, or provisions in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport shall not apply; and

(13) the airport operator or owner who receives a grant for the purchase of land for noise compatibility purposes which is conditioned on the disposal of the acquired land at the earliest practicable time will, subject to the retention or reservation of any interest or right therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of the airport, use its best efforts to so dispose of such land. The proceeds of such dispositions shall be (A) refunded to the United States for the Trust Fund on a basis proportionate to the United States share of the cost of acquisition of such land, or (B) reinvested in an approved project, pursuant to such regulations as the Secretary shall prescribe.

(b) COMPLIANCE.—To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements, consistent with the terms of this title, as the Secretary considers necessary. Among other steps to insure such compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this title, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (7) of subsection (a) of this section.

49 USC 1101 note, *post*, p. 695.

(c) CONSULTATION.—In making a decision to undertake any airport development project under this title, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

49 USC 2211.

SEC. 512. GRANT AGREEMENTS.

(a) OFFER AND ACCEPTANCE.—Upon approving a project grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this title and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this title, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project grant application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 507(a)(1) of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

(b) MAXIMUM OBLIGATION OF THE UNITED STATES.—When an offer is accepted in writing by a sponsor, the amount stated in the offer as

the maximum obligation of the United States may not be increased, except that—

(1) in the case of any project for airport development (other than a project for land acquisition), the maximum obligation of the United States may be increased by not more than 10 percent; and

(2) in the case of any acquisition of land or interests in land, the maximum obligation of the United States may be increased by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to such acquisition in land or interests therein, based upon current credible appraisals.

(c) Notwithstanding any other provision of law, in the case of grants made under the Airport and Airway Development Act of 1970 the maximum obligation of the United States may be increased by not more than 10 percent, and any such increase may be paid for only from funds recovered by the United States from other grants made under that Act.

Post, p. 695.

SEC. 513. PROJECT COSTS.

49 USC 2212.

(a) ALLOWABLE PROJECT COSTS.—Except as provided in section 514 of this title, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 518(b) of this title;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946, and the allowable costs of a project for airport planning may include any necessary and direct costs associated with developing the project work scope which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated

in the grant agreement except to the extent authorized by section 512(b); and

(4) it has not been incurred in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) TERMINAL DEVELOPMENT.—(1) Notwithstanding any other provision of this title, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958 and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft other than air carrier aircraft, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue-producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

49 USC 1432.

(2) Not more than the greater of (A) $200,000, or (B) 60 percent of the sums apportioned under section 507(a)(1) of this title to the sponsor of a primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. Not more than $200,000 of the sums to be distributed at the discretion of the Secretary under section 507(a)(3) for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection.

(3) Not more than $25,000,000 may be obligated for project costs allowable under paragraph (1) of this subsection in any fiscal year at commercial service airports which were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

Post, p. 695.

(4) Sums apportioned under section 507(a) and made available to the sponsor of an air carrier airport (within the meaning of section 11(1) of the Airport and Airway Development Act of 1970, as in effect immediately before the date of enactment of this paragraph) at which terminal development was carried out on or after July 1, 1970, and before July 12, 1976, shall be available, subject to the limitations contained in paragraph (2) of this subsection, for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection if incurred after the effective date of this paragraph, subject to the following conditions:

Post, p. 695.

(A) That such sponsor submit the certification required under paragraph (1) of this subsection.

(B) That the Secretary determine that no project for airport development at such airport outside the terminal area will be deferred if such sums are used for such retirement.

(C) That no funds available for airport development under this title will be obligated for any project for additional terminal development at such airport for a period of three years beginning on the date any such sums are used for such retirement.

(5) Notwithstanding any other provisions of this title, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.

(6) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) COSTS NOT ALLOWED.—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport.

SEC. 514. PAYMENTS UNDER GRANT AGREEMENTS. 49 USC 2213.

The Secretary, after consultation with the sponsor with which a project grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a project grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor.

SEC. 515. PERFORMANCE OF CONSTRUCTION WORK. 49 USC 2214.

(a) REGULATIONS.—The construction work on any project for airport development contained in an approved project grant application submitted in accordance with this title shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) MINIMUM RATES OF WAGES.—All contracts in excess of $2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) VETERANS PREFERENCE.—All contracts for work under project grants for airport development approved under this title which involve labor shall contain such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. For the purposes of this subsection—

(1) a Vietnam-era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions; and

(2) a disabled veteran is an individual described in section 2108(2) of title 5 of the United States Code.

49 USC 2215.

SEC. 516. USE OF GOVERNMENT-OWNED LANDS.

(a) REQUESTS FOR USE.—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this title at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national plan of integrated airport systems, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) MAKING OF CONVEYANCES.—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of four months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used

in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) EXEMPTION OF CERTAIN LANDS.—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or within any national forest or Indian reservation.

SEC. 517. FALSE STATEMENTS. 49 USC 2216.

Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this title;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this title; or

(3) knowingly makes any false statement or false representation in any report or certification required to be made under this title;

shall, upon conviction thereof, be punished by imprisonment for not to exceed five years or by a fine of not to exceed $10,000, or by both.

SEC. 518. ACCESS TO RECORDS. 49 USC 2217.

(a) RECORDKEEPING REQUIREMENTS.—Each recipient of a grant under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this title to insure that such requirements are kept to the minimum level necessary for the proper administration of this title. Review.

(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this title. The Secretary may require, as a condition to receipt of a grant under this title, that an appropriate audit be conducted by a recipient.

(c) AUDIT REPORTS.—In any case in which an independent audit is made of the accounts of a recipient of a grant under this title

relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than six months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

Report to Congress.

(d) WITHHOLDING INFORMATION.—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress.

49 USC 2218.

SEC. 519. GENERAL POWERS.

The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this title, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties, under this title.

49 USC 2219.

SEC. 520. CIVIL RIGHTS.

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

42 USC 2000d.

49 USC 2220.

SEC. 521. REPORTS TO CONGRESS.

On or before the first day of April of each year the Secretary shall make a report to the Congress describing his operations under this title during the preceding fiscal year. The report shall include a detailed statement of the airport development accomplished, the status of each project undertaken, the allocation of appropriations, and an itemized statement of expenditures and receipts.

49 USC 2221.

SEC. 522. REPORT ON ABILITY OF AIRPORTS TO FINANCE AIRPORT DEVELOPMENT NEEDS.

(a) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to the Congress a report on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should be made ineligible to receive Federal assistance for airport development and airport planning under this title.

(b) CONSIDERATIONS.—The study shall consider, among other things: (1) what effect, if any, making such airports ineligible for such Federal assistance would have on the national airport system; (2) whether airports which are made ineligible for assistance, or voluntarily withdraw from the program, should be permitted to collect a passenger facility charge; (3) how such a passenger facility charge could be collected in order to minimize any cost and inconvenience for passengers, airports, and air carriers; (4) the extent to which such a program would permit a reduction in Federal taxes on air transportation; (5) whether the net effect of such a program would lower or increase the cost of air transportation to passengers on our Nation's air carriers; and (6) whether the Congress should implement such a program prior to the expiration of this title.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with airport operators, air carriers, and representatives of any other groups which may be substantially affected by such a program.

SEC. 523. REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; AND SEPARABILITY.

(a) REPEAL.—Sections 1 through 30 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701-1730) are repealed on the date of enactment of this title.

(b) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on the date of enactment of this title. 49 USC 2201 note.

(c) SAVING PROVISIONS.—(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction or any provision of the Airport and Airway Development Act of 1970 or the Federal Airport Act which are in effect at the time this title takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law. 49 USC 2201 note. *Supra*, 49 USC 1101 note.

(2) Notwithstanding any other provision of this title, amounts apportioned before October 1, 1981, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act (other than the second sentence of section 14(b)(2)), to the same extent as though that Act had not been repealed. 49 USC 1715. 49 USC 1714.

(d) SEPARABILITY.—If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of the title and the application of the provision to other persons or circumstances is not affected thereby. 49 USC 2201 note.

SEC. 524. MISCELLANEOUS AMENDMENTS.

(a)(1) Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based

operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.".

(2) Section 313(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(c)) is amended by inserting "the Airport and Airway Improvement Act of 1982," after "this Act," the first place it appears.

Ante, p. 671.

(3) Section 1109(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1509(e)) is amended by striking out "Airport and Airway Development Act of 1970" and inserting in lieu thereof "Airport and Airway Improvement Act of 1982".

(b) The Aviation Safety and Noise Abatement Act of 1979 is amended as follows:

49 USC 2101.

(1) Section 101(1) is amended to read as follows:

"(1) the term 'airport' means any public-use airport (as defined by section 503(17) of the Airport and Airway Improvement Act of 1982);".

(2) Section 101(2) is amended to read as follows:

"(2) the term 'airport operator' means, in the case of an airport serving air carriers certificated by the Civil Aeronautics Board, any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport, and, in the case of any other airport, the person operating such airport; and".

49 USC 2103.

(3) Section 103(b) is amended to read as follows:

49 USC 1711, 1713.

"(b)(1) The Secretary is authorized to incur obligations to make grants from funds made available under section 505 of the Airport and Airway Improvement Act of 1982 for airport noise compatibility planning to sponsors of airports. The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 510 of the Airport and Airway Improvement Act of 1982.

"(2) For purposes of this Act, the term 'airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to subsection (a) of this section, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of this Act.".

49 USC 2104.

(4) Section 104(c)(1) is amended by striking out "subsection (e) of this section" in the first sentence and inserting in lieu thereof "section 505 of the Airport and Airway Improvement Act of 1982". The last sentence of section 104(c)(1) is amended to read as follows: "All of the provisions of the Airport and Airway Improvement Act of 1982 applicable to project grants made under section 505 of that Act (except section 510 of that Act relating to United States share of project costs) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1982 is inconsistent with, or unnecessary to carry out, the purposes of this Act.".

49 USC 2108.

(5) Section 108 is amended by striking out "(1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2)" and inserting in lieu thereof "airport noise compatibility planning and".

(c) Section 13(g)(1) of the Surplus Property Act of 1944 (50 App. U.S.C. 1622(g)(1)) is amended by striking out "Airport and Airway

Development Act of 1970" and inserting in lieu thereof "Airport and Airway Improvement Act of 1982". *Ante*, p. 671.

(d) Section 24 of the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1356a) is amended by striking out subsection (c) and inserting in lieu thereof the following: Appropriation authorization.

"(c)(1) There is authorized to be appropriated out of the Airport and Airway Trust Fund for amounts expended before the date specified in paragraph (2) of this subsection not to exceed $15,000,000. No such amounts shall be appropriated prior to September 30, 1981.

"(2) No compensation shall be paid by the Secretary of Transportation under this section for amounts expended after the date which is 180 days after the date of enactment of the International Air Transportation Competition Act of 1979.". 49 USC 1301 note.

(e) Section 31 of the Airport and Airway Development Act of 1970 is amended by striking out "this title" and inserting in lieu thereof "the Airport and Airway Improvement Act of 1982", by inserting "under such Act" after "airport development project", and by inserting "(as defined by section 11(8) of the Airport and Airway Development Act of 1970, as in effect on the date of enactment of this section)" after "general aviation airport". 49 USC 1731. *Ante*, p. 671. 49 USC 1711.

(f) The last sentence of section 612(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)) is amended by inserting "(1)" immediately after the words "relating to" and by inserting the following immediately before the period at the end thereof: "and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary".

SEC. 525. SAFETY CERTIFICATION OF AIRPORTS.

(a) Section 612(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(a)) is amended to read as follows:

"POWER TO ISSUE

"SEC. 612. (a) The Administrator is empowered to issue airport operating certificates to, and establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats.".

(b) Section 612(b) of such Act (49 U.S.C. 1432(b)) is amended by striking out "serving air carriers certificated by the Civil Aeronautics Board" in the first sentence and inserting in lieu thereof "which is described in subsection (a) and which is required by the Administrator, by rule, to be certificated".

(c) Section 612(c) of such Act (49 U.S.C. 1432(c)) is amended by striking out "air carrier airport enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all air carriers airports" and inserting in lieu thereof "airport described in subsection (a)(1) enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all airports described in subsection (a)(1)".

(d) Section 610(a)(8) of such Act (49 U.S.C. 1430(a)(8)) is amended to read as follows:

"(8) For any person to operate an airport without an airport operating certificate required by the Administrator pursuant to section 612, or in violation of the terms of any such certificate; and".

49 USC 2222.

SEC. 526. CONTRACTING AUTHORITY.

In the powers granted under section 519 of this title, the Secretary, in entering into a contract or other agreement with any State or political subdivision thereof for the purpose of permitting such State or subdivision to operate any airport facility within such State or subdivision shall insure that such contract or agreement contain, among others, a provision relieving the United States of any and all liability for the payment of any claim or other obligation arising out of or in connection with acts or omissions of employees of such State or political subdivision in the operation of any such airport facility.

49 USC 2223.

SEC. 527. STUDY OF AIRPORT ACCESS.

(a) The Secretary shall appoint a task force, as provided in subsection (b), to study the problems of allocating the use of airport facilities and airspace (including, but not limited to, gate facilities, landing facilities, airspace slots, and ticketing and terminal space) among persons using or seeking to use such facilities. The task force shall make a study of present methods of allocating the use of airport facilities and airspace, and, if such action is determined to be appropriate, shall make recommendations for improving those methods and for resolving disputes with respect to the use of such facilities. The task force shall report its findings and recommendations to the chairman of the Committee on Public Works and Transportation of the House of Representatives and the chairman of the Committee on Commerce, Science, and Transportation of the Senate not later than one hundred and twenty days after the task force first meets under subsection (c).

Report to congressional committees.

(b) The task force shall consist of the Chairman of the Civil Aeronautics Board, who shall serve as chairman of the task force, and individuals appointed by the Secretary of Transportation not later than sixty days after the date of enactment of this title, including, but not limited to, a representative of each of the following:

(1) the Department of Transportation;
(2) the Department of Justice;
(3) States;
(4) owners and operators of airports, including those owners and operators of airports which do not restrict access, but which provide service to airports where access is currently restricted or is expected to be restricted in the future;
(5) trunk air carriers;
(6) regional air carriers (other than commuter air carriers);
(7) charter air carriers;
(8) commuter air carriers;
(9) all-cargo air carriers;
(10) general aviation;
(11) financial institutions with an interest in the aviation industry; and
(12) aviation consumer groups.

(c) The task force shall meet, at the direction of the chairman, not later than thirty days after all its members have been appointed under subsection (b), and at such other times as may be necessary to complete the study required by this section.

(d) The Secretary shall provide such staff and support services as may be necessary to assist the task force in completing the report required by this section.

SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS. 49 USC 2224.

(a) Beginning on the date of enactment of this title, the Secretary shall not close or operate on a part-time basis any flight service station except in accordance with this section.

(b) During the period beginning on the date of enactment of this title and ending on September 30, 1983, the Secretary may provide for the part-time operation of not more than sixty existing flight service stations operated by the Federal Aviation Administration. The operation of a flight service station on a part-time basis shall be subject to the condition that during any period when a flight service station is part-timed, the service provided to airmen with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station shall be as good as or better than the service provided when the station is open, and all such service shall be provided either by mechanical device or by contract with another party.

(c) The Secretary may close not more than five existing flight service stations before October 1, 1983. After October 1, 1983, the Secretary may close additional flight service stations, but only if the service provided to airmen after the closure of such station with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station is as good as or better than the service provided when the station was open and such service is provided either by mechanical device or by contract with another party.

SEC. 529. EXPLOSIVE DETECTION K-9 TEAMS. 49 USC 2225.

The Secretary shall provide by grant for the continuation of the Explosive Detection K-9 Team Training Program for the purpose of detecting explosives at airports and aboard aircraft. There is authorized to be appropriated out of the Airport and Airway Trust Fund for purposes of this section not more than $150,000 nor less than $130,000 for each fiscal year beginning after September 30, 1981, and ending before October 1, 1987.

SEC. 530. RELEASE OF CERTAIN CONDITIONS.

(a) CRYSTAL CITY, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on January 3, 1949), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated January 3, 1949, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Crystal City, Texas, for airport purposes. 49 USC 1115 note.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Crystal City, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

49 USC 1115 note.

(b) BROWNWOOD, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on June 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deeds of conveyance dated June 26, 1950, and April 1, 1963, under which the United States conveyed certain property to the city of Brownwood, Texas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city of Brownwood, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by the deeds dated June 26, 1950, and April 1, 1963, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(c) GRAND JUNCTION, COLORADO.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on September 14, 1951), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated September 14, 1951, under which the United States conveyed certain property to the city of Grand Junction, Colorado, for airport purposes and the deed of conveyance dated March 24, 1975, under which the city of Grand Junction, Colorado, conveyed such property to the Walker Field Public Airport Authority.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which releases are granted under this section shall not exceed a total of eighteen acres.

(B) The Walker Field Public Airport Authority shall agree that in leasing, or conveying any interest in, the property for which releases are granted under this section, such Authority will receive an amount which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by such Secretary).

(C) Any such amount so received by the Walker Field Public Airport Authority, shall be used by such Authority for the development, improvement, operation, or maintenance of the Walker Field Public Airport.

(d) NEWPORT, ARKANSAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on December 17, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained

in the deed of conveyance dated December 17, 1947, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Newport, Arkansas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Newport, Arkansas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

SEC. 531. CONTINUATION OF CERTAIN CERTIFICATES.

Notwithstanding any other provision of law or of any certificate issued by the Civil Aeronautics Board to the contrary, any certificate to engage in temporary air transportation which was issued under section 401(d)(8) of the Federal Aviation Act of 1958 or pursuant to the Trans-Atlantic Route Proceeding, CAB Docket Number 25908, and any certificate which was issued in the California/Southwest-Mexico Route Proceeding, CAB Docket Number 32665, and which is in effect on the date of enactment of this title shall be effective for a period of two years beyond the period for which it was issued. 49 USC 1371.

SEC. 532. STATE TAXATION.

(a) Section 1113(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1513(b)) is amended by striking out "Nothing" and inserting in lieu thereof "Except as provided in subsection (d) of this section, nothing".

(b) Section 1113 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(A) assess air carrier transportation property at a value that has a higher ratio to the true market value of the air carrier transportation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(B) levy or collect a tax on an assessment that may not be made under subparagraph (A) of this paragraph; or

"(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(2) In this subsection—

"(A) 'assessment' means valuation for a property tax levied by a taxing district;

"(B) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(C) 'air carrier transportation property' means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation;

"(D) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy; and

"(E) 'State' shall include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States, and political agencies of two or more States.

"(3) This subsection shall not apply to any in lieu tax which is wholly utilized for airport and aeronautical purposes.".

TITLE VI—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

Subtitle A—Extension of Benefits

Federal Supplemental Compensation Act of 1982.

SHORT TITLE

26 USC 3304 note.

SEC. 601. This subtitle may be cited as the "Federal Supplemental Compensation Act of 1982".

FEDERAL-STATE AGREEMENTS

26 USC 3304 note.

SEC. 602. (a) Any State which desires to do so may enter into and participate in an agreement with the Secretary of Labor (hereinafter in this title referred to as the "Secretary") under this subtitle. Any State which is a party to an agreement under this subtitle may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individiuals who—

(A) have exhausted all rights to regular compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and is not paid or entitled to be paid any additional compensation under any such State or Federal law); and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada;

(2) for any week of unemployment which begins in the individual's period of eligibility,

except that no payment of Federal supplemental compensation shall be made to any individual for any week of unemployment which

begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) For purposes of any agreement under this subtitle—

(1) the amount of the Federal supplemental compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law for a week of total unemployment; and

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof; except where inconsistent with the provisions of this subtitle or with the regulations of the Secretary promulgated to carry out this subtitle.

Solely for purposes of paragraph (2), the amendment made by section 2404(a) of the Omnibus Budget Reconciliation Act of 1981 shall be deemed to be in effect for all weeks beginning on or after September 12, 1982. 95 Stat. 875. 26 USC 3304 note.

(e)(1) Any agreement under this subtitle with a State shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individual's benefit year.

(2)(A) Except as otherwise provided in this paragraph, the amount established in such account for any individual shall be equal to the lesser of—

(i) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(ii) 6 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year. 26 USC 3304 note.

(B) If an extended benefit period was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 in a State for any week which begins on or after June 1, 1982, and before the week for which the compensation is paid, subparagraph (A) shall be applied with respect to such State by substituting "10" for "6" in clause (ii) thereof.

(C)(i) In the case of any State not described in subparagraph (B), subparagraph (A) shall be applied, only with respect to weeks during a high unemployment period, by substituting "8" for "6" in clause (ii) thereof.

(ii) For purposes of clause (i), the term "high unemployment period" means, with respect to any State, the period—

(I) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent, and

(II) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent;

except that no high unemployment period shall last for a period of less than 4 weeks.

(iii) For purposes of clause (ii), the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

26 USC 3304 note.

(f)(1) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this subtitle for any week beginning before whichever of the following is the later:

(A) the week following the week in which such agreement is entered into; or

(B) September 12, 1982.

(2) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this subtitle for any week beginning after March 31, 1983.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION

26 USC 3304 note.

SEC. 603. (a) There shall be paid to each State which has entered into an agreement under this subtitle an amount equal to 100 per centum of the Federal supplemental compensation paid to individuals by the State pursuant to such agreement.

5 USC 8501 *et seq.*

(b) No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this subtitle or chapter 85 of title 5 of the United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this subtitle in respect of such compensation.

(c) Sums payable to any State by reason of such State's having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

26 USC 3304 note.
42 USC 1105.

SEC. 604. (a)(1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of

payments to States having agreements entered into under this subtitle.

(2) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this subtitle. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund. 42 USC 1105.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, such sums as may be necessary to carry out the purposes of this subtitle. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

(c) There are hereby authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this subtitle. 42 USC. 501.

DEFINITIONS

SEC. 605. For purposes of this subtitle— 26 USC 3304 note.

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970; and 26 USC 3304 note.

(2) the term "period of eligibility" means, with respect to any individual, any week which begins on or after September 12, 1982, and begins before April 1, 1983; except that an individual shall not have a period of eligibility unless—

(A) his benefit year ends on or after June 1, 1982, or

(B) such individual was entitled to extended compensation for a week which begins on or after June 1, 1982.

FRAUD AND OVERPAYMENTS

SEC. 606. (a)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this subtitle to which he was not entitled, such individual— 26 USC 3304 note.

(A) shall be ineligible for further Federal supplemental compensation under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) In the case of individuals who have received amounts of Federal supplemental compensation under this subtitle to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such Federal supplemental

compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(i) the payment of such Federal Supplemental compensation was without fault on the part of any such individual, and

(ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(C) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

Subtitle B—Taxation of Unemployment Compensation

SEC. 611. TAXATION OF UNEMPLOYMENT COMPENSATION.

(a) LOWERING BASE AMOUNT FROM $20,000 TO $12,000 (FROM $25,000 TO $18,000 IN CASE OF JOINT RETURN).—Subsection (b) of section 85 of the Internal Revenue Code of 1954 (defining base amount) is amended— 26 USC 85.

(1) by striking out "$20,000" and inserting in lieu thereof "$12,000", and

(2) by striking out "$25,000" and inserting in lieu thereof "$18,000".

(b) EFFECTIVE DATES.— 26 USC 85 note.

(1) COMPENSATION PAID AFTER 1981.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1981, in taxable years ending after such date.

(2) NO ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX ATTRIBUTABLE TO APPLICATION OF AMENDMENTS TO COMPENSATION PAID IN 1982.—No addition to tax shall be made under section 6654 of the Internal Revenue Code of 1954 with respect to any underpayment to the extent such underpayment is attributable to unemployment compensation which is received during 1982 and which (but for the amendments made by subsection (a)) would not be includable in gross income.

(3) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxable year (other than a calendar year) which includes January 1, 1982—

(A) the amendments made by this section shall be applied by taking into account the entire amount of unemployment compensation received during such taxable year, but

(B) the increase in gross income for such taxable year as a result of such amendments shall not exceed the amount of unemployment compensation paid after December 31, 1981.

(4) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this subsection, the term "unemployment compensation" has the meaning given to such term by section 85(c) of the Internal Revenue Code of 1954.

Approved September 3, 1982.

LEGISLATIVE HISTORY—H.R. 4961:

HOUSE REPORTS: No. 97-404 (Comm. on Ways and Means) and No. 97-760 (Comm. of Conference).

SENATE REPORTS: No. 97-494 Vols. 1 and 2 (Comm. on Finance) and No. 97-530 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 127 (1981): Dec. 15, considered and passed House.

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