

105TH CONGRESS
1ST SESSION

H. R. 2676

AN ACT

To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

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To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**
 2 **TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Internal Revenue Service Restructuring and Reform Act
 5 of 1997”.

6 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
 7 wise expressly provided, whenever in this Act an amend-
 8 ment or repeal is expressed in terms of an amendment
 9 to, or repeal of, a section or other provision, the reference
 10 shall be considered to be made to a section or other provi-
 11 sion of the Internal Revenue Code of 1986.

12 (c) **TABLE OF CONTENTS.**—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

**TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR
 MANAGEMENT OF THE INTERNAL REVENUE SERVICE**

Subtitle A—Executive Branch Governance and Senior Management

Sec. 101. Internal Revenue Service Oversight Board.

Sec. 102. Commissioner of Internal Revenue; other officials.

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 other investigations.

Subtitle B—Personnel Flexibilities

Sec. 111. Personnel flexibilities.

TITLE II—ELECTRONIC FILING

Sec. 201. Electronic filing of tax and information returns.

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Sec. 300. Short title.

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Sec. 301. Burden of proof.

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Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

- Sec. 321. Spouse relieved in whole or in part of liability in certain cases.
- Sec. 322. Suspension of statute of limitations on filing refund claims during periods of disability.

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- Sec. 331. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.
- Sec. 332. Increase in overpayment rate payable to taxpayers other than corporations.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

- Sec. 341. Privilege of confidentiality extended to taxpayer's dealings with non-attorneys authorized to practice before Internal Revenue Service.
- Sec. 342. Expansion of authority to issue taxpayer assistance orders.
- Sec. 343. Limitation on financial status audit techniques.
- Sec. 344. Limitation on authority to require production of computer source code.
- Sec. 345. Procedures relating to extensions of statute of limitations by agreement.
- Sec. 346. Offers-in-compromise.
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- Sec. 348. Refund or credit of overpayments before final determination.
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Subtitle F—Disclosures to Taxpayers

- Sec. 351. Explanation of joint and several liability.
- Sec. 352. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.
- Sec. 353. Disclosure of criteria for examination selection.
- Sec. 354. Explanations of appeals and collection process.

Subtitle G—Low Income Taxpayer Clinics

- Sec. 361. Low income taxpayer clinics.

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- Sec. 371. Actions for refund with respect to certain estates which have elected the installment method of payment.
- Sec. 372. Cataloging complaints.
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- Sec. 376. Limitation on penalty on individual's failure to pay for months during period of installment agreement.

Subtitle I—Studies

- Sec. 381. Penalty administration.
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TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE
INTERNAL REVENUE SERVICE

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- Sec. 401. Expansion of duties of the Joint Committee on Taxation.
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- Sec. 421. Role of the Internal Revenue Service.
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COMPENSATION

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- Sec. 604. Amendments related to title II of 1997 Act.
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- Sec. 607. Amendments related to title VII of 1997 Act.
- Sec. 608. Amendments related to title IX of 1997 Act.
- Sec. 609. Amendments related to title X of 1997 Act.
- Sec. 610. Amendments related to title XI of 1997 Act.
- Sec. 611. Amendments related to title XII of 1997 Act.
- Sec. 612. Amendments related to title XIII of 1997 Act.
- Sec. 613. Amendments related to title XIV of 1997 Act.
- Sec. 614. Amendments related to title XV of 1997 Act.
- Sec. 615. Amendments related to title XVI of 1997 Act.
- Sec. 616. Amendments related to Omnibus Budget Reconciliation Act of 1993.
- Sec. 617. Amendments related to Tax Reform Act of 1984.
- Sec. 618. Amendments related to Tax Reform Act of 1986.
- Sec. 619. Miscellaneous clerical and deadwood changes.
- Sec. 620. Effective date.

1 **TITLE I—EXECUTIVE BRANCH**
2 **GOVERNANCE AND SENIOR**
3 **MANAGEMENT OF THE INTER-**
4 **NAL REVENUE SERVICE**

5 **Subtitle A—Executive Branch Gov-**
6 **ernance and Senior Manage-**
7 **ment**

8 **SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT**
9 **BOARD.**

10 (a) IN GENERAL.—Section 7802 (relating to the
11 Commissioner of Internal Revenue) is amended to read as
12 follows:

13 **“SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT**
14 **BOARD.**

15 “(a) ESTABLISHMENT.—There is established within
16 the Department of the Treasury the Internal Revenue
17 Service Oversight Board (hereafter in this subchapter re-
18 ferred to as the ‘Oversight Board’).

19 “(b) MEMBERSHIP.—

20 “(1) COMPOSITION.—The Oversight Board
21 shall be composed of 11 members, as follows:

22 “(A) 8 members shall be individuals who
23 are not Federal officers or employees and who
24 are appointed by the President, by and with the
25 advice and consent of the Senate.

1 “(B) 1 member shall be the Secretary of
2 the Treasury or, if the Secretary so designates,
3 the Deputy Secretary of the Treasury.

4 “(C) 1 member shall be the Commissioner
5 of Internal Revenue.

6 “(D) 1 member shall be an individual who
7 is a representative of an organization that rep-
8 represents a substantial number of Internal Reve-
9 nue Service employees and who is appointed by
10 the President, by and with the advice and con-
11 sent of the Senate.

12 “(2) QUALIFICATIONS AND TERMS.—

13 “(A) QUALIFICATIONS.—Members of the
14 Oversight Board described in paragraph (1)(A)
15 shall be appointed solely on the basis of their
16 professional experience and expertise in 1 or
17 more of the following areas:

18 “(i) Management of large service or-
19 ganizations.

20 “(ii) Customer service.

21 “(iii) Federal tax laws, including tax
22 administration and compliance.

23 “(iv) Information technology.

24 “(v) Organization development.

1 “(vi) The needs and concerns of tax-
2 payers.

3 In the aggregate, the members of the Oversight
4 Board described in paragraph (1)(A) should
5 collectively bring to bear expertise in all of the
6 areas described in the preceding sentence.

7 “(B) TERMS.—Each member who is de-
8 scribed in paragraph (1)(A) or (D) shall be ap-
9 pointed for a term of 5 years, except that of the
10 members first appointed under paragraph
11 (1)(A)—

12 “(i) 1 member shall be appointed for
13 a term of 1 year,

14 “(ii) 1 member shall be appointed for
15 a term of 2 years,

16 “(iii) 2 members shall be appointed
17 for a term of 3 years, and

18 “(iv) 2 members shall be appointed
19 for a term of 4 years.

20 Such terms shall begin on the date of appoint-
21 ment.

22 “(C) REAPPOINTMENT.—An individual
23 who is described in paragraph (1)(A) may be
24 appointed to no more than two 5-year terms on
25 the Oversight Board.

1 “(D) VACANCY.—Any vacancy on the
2 Oversight Board shall be filled in the same
3 manner as the original appointment. Any mem-
4 ber appointed to fill a vacancy occurring before
5 the expiration of the term for which the mem-
6 ber’s predecessor was appointed shall be ap-
7 pointed for the remainder of that term.

8 “(E) SPECIAL GOVERNMENT EMPLOY-
9 EES.—During the entire period that an individ-
10 ual appointed under paragraph (1)(A) is a
11 member of the Oversight Board, such individual
12 shall be treated as—

13 “(i) serving as a special government
14 employee (as defined in section 202 of title
15 18, United States Code) and as described
16 in section 207(c)(2) of such title 18, and

17 “(ii) serving as an officer or employee
18 referred to in section 101(f) of the Ethics
19 in Government Act of 1978 for purposes of
20 title I of such Act.

21 “(3) QUORUM.—6 members of the Oversight
22 Board shall constitute a quorum. A majority of
23 members present and voting shall be required for the
24 Oversight Board to take action.

25 “(4) REMOVAL.—

1 “(A) IN GENERAL.—Any member of the
2 Oversight Board may be removed at the will of
3 the President.

4 “(B) SECRETARY AND COMMISSIONER.—
5 An individual described in subparagraph (B) or
6 (C) of paragraph (1) shall be removed upon ter-
7 mination of employment.

8 “(C) REPRESENTATIVE OF INTERNAL REV-
9 ENUE SERVICE EMPLOYEES.—The member de-
10 scribed in paragraph (1)(D) shall be removed
11 upon termination of employment, membership,
12 or other affiliation with the organization de-
13 scribed in such paragraph.

14 “(5) CLAIMS.—

15 “(A) IN GENERAL.—Members of the Over-
16 sight Board who are described in paragraph
17 (1)(A) or (D) shall have no personal liability
18 under Federal law with respect to any claim
19 arising out of or resulting from an act or omis-
20 sion by such member within the scope of service
21 as a member. The preceding sentence shall not
22 be construed to limit personal liability for crimi-
23 nal acts or omissions, willful or malicious con-
24 duct, acts or omissions for private gain, or any

1 other act or omission outside the scope of the
2 service of such member on the Oversight Board.

3 “(B) EFFECT ON OTHER LAW.—This para-
4 graph shall not be construed—

5 “(i) to affect any other immunities
6 and protections that may be available to
7 such member under applicable law with re-
8 spect to such transactions,

9 “(ii) to affect any other right or rem-
10 edy against the United States under appli-
11 cable law, or

12 “(iii) to limit or alter in any way the
13 immunities that are available under appli-
14 cable law for Federal officers and employ-
15 ees.

16 “(c) GENERAL RESPONSIBILITIES.—

17 “(1) IN GENERAL.—The Oversight Board shall
18 oversee the Internal Revenue Service in its adminis-
19 tration, management, conduct, direction, and super-
20 vision of the execution and application of the inter-
21 nal revenue laws or related statutes and tax conven-
22 tions to which the United States is a party.

23 “(2) EXCEPTIONS.—The Oversight Board shall
24 have no responsibilities or authority with respect
25 to—

1 “(A) the development and formulation of
2 Federal tax policy relating to existing or pro-
3 posed internal revenue laws, related statutes,
4 and tax conventions,

5 “(B) law enforcement activities of the In-
6 ternal Revenue Service, including compliance
7 activities such as criminal investigations, exami-
8 nations, and collection activities, or

9 “(C) specific procurement activities of the
10 Internal Revenue Service.

11 “(3) RESTRICTION ON DISCLOSURE OF RETURN
12 INFORMATION TO OVERSIGHT BOARD MEMBERS.—
13 No return, return information, or taxpayer return
14 information (as defined in section 6103(b)) may be
15 disclosed to any member of the Oversight Board de-
16 scribed in subsection (b)(1)(A) or (D). Any request
17 for information not permitted to be disclosed under
18 the preceding sentence, and any contact relating to
19 a specific taxpayer, made by a member of the Over-
20 sight Board so described to an officer or employee
21 of the Internal Revenue Service shall be reported by
22 such officer or employee to the Secretary and the
23 Joint Committee on Taxation.

24 “(d) SPECIFIC RESPONSIBILITIES.—The Oversight
25 Board shall have the following specific responsibilities:

1 “(1) STRATEGIC PLANS.—To review and ap-
2 prove strategic plans of the Internal Revenue Serv-
3 ice, including the establishment of—

4 “(A) mission and objectives, and standards
5 of performance relative to either, and

6 “(B) annual and long-range strategic
7 plans.

8 “(2) OPERATIONAL PLANS.—To review the
9 operational functions of the Internal Revenue Serv-
10 ice, including—

11 “(A) plans for modernization of the tax
12 system,

13 “(B) plans for outsourcing or managed
14 competition, and

15 “(C) plans for training and education.

16 “(3) MANAGEMENT.—To—

17 “(A) recommend to the President can-
18 didates for appointment as the Commissioner of
19 Internal Revenue and recommend to the Presi-
20 dent the removal of the Commissioner,

21 “(B) review the Commissioner’s selection,
22 evaluation, and compensation of senior man-
23 agers, and

1 “(C) review and approve the Commis-
2 sioner’s plans for any major reorganization of
3 the Internal Revenue Service.

4 “(4) BUDGET.—To—

5 “(A) review and approve the budget re-
6 quest of the Internal Revenue Service prepared
7 by the Commissioner,

8 “(B) submit such budget request to the
9 Secretary of the Treasury, and

10 “(C) ensure that the budget request sup-
11 ports the annual and long-range strategic plans.

12 The Secretary shall submit the budget request referred to
13 in paragraph (4)(B) for any fiscal year to the President
14 who shall submit such request, without revision, to Con-
15 gress together with the President’s annual budget request
16 for the Internal Revenue Service for such fiscal year.

17 “(e) BOARD PERSONNEL MATTERS.—

18 “(1) COMPENSATION OF MEMBERS.—

19 “(A) IN GENERAL.—Each member of the
20 Oversight Board who is described in subsection
21 (b)(1)(A) shall be compensated at a rate not to
22 exceed \$30,000 per year. All other members of
23 the Oversight Board shall serve without com-
24 pensation for such service.

1 “(B) CHAIRPERSON.—In lieu of the
2 amount specified in subparagraph (A), the
3 Chairperson of the Oversight Board shall be
4 compensated at a rate not to exceed \$50,000.

5 “(2) TRAVEL EXPENSES.—The members of the
6 Oversight Board shall be allowed travel expenses, in-
7 cluding per diem in lieu of subsistence, at rates au-
8 thorized for employees of agencies under subchapter
9 I of chapter 57 of title 5, United States Code, while
10 away from their homes or regular places of business
11 for purposes of attending meetings of the Oversight
12 Board.

13 “(3) STAFF.—At the request of the Chair-
14 person of the Oversight Board, the Commissioner
15 shall detail to the Oversight Board such personnel as
16 may be necessary to enable the Oversight Board to
17 perform its duties. Such detail shall be without
18 interruption or loss of civil service status or privi-
19 lege.

20 “(4) PROCUREMENT OF TEMPORARY AND
21 INTERMITTENT SERVICES.—The Chairperson of the
22 Oversight Board may procure temporary and inter-
23 mittent services under section 3109(b) of title 5,
24 United States Code.

25 “(f) ADMINISTRATIVE MATTERS.—

1 “(1) CHAIR.—The members of the Oversight
2 Board shall elect for a 2-year term a chairperson
3 from among the members appointed under sub-
4 section (b)(1)(A).

5 “(2) COMMITTEES.—The Oversight Board may
6 establish such committees as the Oversight Board
7 determines appropriate.

8 “(3) MEETINGS.—The Oversight Board shall
9 meet at least once each month and at such other
10 times as the Oversight Board determines appro-
11 priate.

12 “(4) REPORTS.—The Oversight Board shall
13 each year report to the President and the Congress
14 with respect to the conduct of its responsibilities
15 under this title.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 4946(c) (relating to definitions and
18 special rules for chapter 42) is amended—

19 (A) by striking “or” at the end of para-
20 graph (5),

21 (B) by striking the period at the end of
22 paragraph (6) and inserting “, or”, and

23 (C) by adding at the end the following new
24 paragraph:

1 “(7) a member of the Internal Revenue Service
2 Oversight Board.”.

3 (2) The table of sections for subchapter A of
4 chapter 80 is amended by striking the item relating
5 to section 7802 and inserting the following new
6 item:

 “Sec. 7802. Internal Revenue Service Oversight Board.”.

7 (c) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 this section shall take effect on the date of the en-
10 actment of this Act.

11 (2) NOMINATIONS TO INTERNAL REVENUE
12 SERVICE OVERSIGHT BOARD.—The President shall
13 submit nominations under section 7802 of the Inter-
14 nal Revenue Code of 1986, as added by this section,
15 to the Senate not later than 6 months after the date
16 of the enactment of this Act.

17 **SEC. 102. COMMISSIONER OF INTERNAL REVENUE; OTHER**
18 **OFFICIALS.**

19 (a) IN GENERAL.—Section 7803 (relating to other
20 personnel) is amended to read as follows:

21 **“SEC. 7803. COMMISSIONER OF INTERNAL REVENUE;**
22 **OTHER OFFICIALS.**

23 “(a) COMMISSIONER OF INTERNAL REVENUE.—

24 “(1) APPOINTMENT.—

1 “(A) IN GENERAL.—There shall be in the
2 Department of the Treasury a Commissioner of
3 Internal Revenue who shall be appointed by the
4 President, by and with the advice and consent
5 of the Senate, to a 5-year term. The appoint-
6 ment shall be made without regard to political
7 affiliation or activity.

8 “(B) VACANCY.—Any individual appointed
9 to fill a vacancy in the position of Commis-
10 sioner occurring before the expiration of the
11 term for which such individual’s predecessor
12 was appointed shall be appointed only for the
13 remainder of that term.

14 “(C) REMOVAL.—The Commissioner may
15 be removed at the will of the President.

16 “(2) DUTIES.—The Commissioner shall have
17 such duties and powers as the Secretary may pre-
18 scribe, including the power to—

19 “(A) administer, manage, conduct, direct,
20 and supervise the execution and application of
21 the internal revenue laws or related statutes
22 and ax conventions to which the United States
23 is a party; and

24 “(B) recommend to the President a can-
25 didate for appointment as Chief Counsel for the

1 Internal Revenue Service when a vacancy oc-
2 curs, and recommend to the President the re-
3 moval of such Chief Counsel.

4 If the Secretary determines not to delegate a power
5 specified in subparagraph (A) or (B), such deter-
6 mination may not take effect until 30 days after the
7 Secretary notifies the Committees on Ways and
8 Means, Government Reform and Oversight, and Ap-
9 propriations of the House of Representatives, the
10 Committees on Finance, Government Operations,
11 and Appropriations of the Senate, and the Joint
12 Committee on Taxation.

13 “(3) CONSULTATION WITH BOARD.—The Com-
14 missioner shall consult with the Oversight Board on
15 all matters set forth in paragraphs (2) and (3)
16 (other than paragraph (3)(A)) of section 7802(d).

17 “(b) ASSISTANT COMMISSIONER FOR EMPLOYEE
18 PLANS AND EXEMPT ORGANIZATIONS.—There is estab-
19 lished within the Internal Revenue Service an office to be
20 known as the ‘Office of Employee Plans and Exempt Or-
21 ganizations’ to be under the supervision and direction of
22 an Assistant Commissioner of Internal Revenue. As head
23 of the Office, the Assistant Commissioner shall be respon-
24 sible for carrying out such functions as the Secretary may
25 prescribe with respect to organizations exempt from tax

1 under section 501(a) and with respect to plans to which
2 part I of subchapter D of chapter 1 applies (and with re-
3 spect to organizations designed to be exempt under such
4 section and plans designed to be plans to which such part
5 applies) and other nonqualified deferred compensation ar-
6 rangements. The Assistant Commissioner shall report an-
7 nually to the Commissioner with respect to the Assistant
8 Commissioner's responsibilities under this section.

9 “(c) OFFICE OF TAXPAYER ADVOCATE.—

10 “(1) IN GENERAL.—

11 “(A) ESTABLISHMENT.—There is estab-
12 lished in the Internal Revenue Service an office
13 to be known as the ‘Office of the Taxpayer Ad-
14 vocate’. Such office shall be under the super-
15 vision and direction of an official to be known
16 as the ‘Taxpayer Advocate’ who shall be ap-
17 pointed with the approval of the Oversight
18 Board by the Commissioner of Internal Reve-
19 nue and shall report directly to the Commis-
20 sioner. The Taxpayer Advocate shall be entitled
21 to compensation at the same rate as the highest
22 level official reporting directly to the Commis-
23 sioner of Internal Revenue.

24 “(B) RESTRICTION ON SUBSEQUENT EM-
25 PLOYMENT.—An individual who is an officer or

1 employee of the Internal Revenue Service may
2 be appointed as Taxpayer Advocate only if such
3 individual agrees not to accept any employment
4 with the Internal Revenue Service for at least
5 5 years after ceasing to be the Taxpayer Advo-
6 cate.

7 “(2) FUNCTIONS OF OFFICE.—

8 “(A) IN GENERAL.—It shall be the func-
9 tion of the Office of Taxpayer Advocate to—

10 “(i) assist taxpayers in resolving prob-
11 lems with the Internal Revenue Service,

12 “(ii) identify areas in which taxpayers
13 have problems in dealings with the Internal
14 Revenue Service,

15 “(iii) to the extent possible, propose
16 changes in the administrative practices of
17 the Internal Revenue Service to mitigate
18 problems identified under clause (ii), and

19 “(iv) identify potential legislative
20 changes which may be appropriate to miti-
21 gate such problems.

22 “(B) ANNUAL REPORTS.—

23 “(i) OBJECTIVES.—Not later than
24 June 30 of each calendar year, the Tax-
25 payer Advocate shall report to the Commit-

1 tee on Ways and Means of the House of
2 Representatives and the Committee on Fi-
3 nance of the Senate on the objectives of
4 the Taxpayer Advocate for the fiscal year
5 beginning in such calendar year. Any such
6 report shall contain full and substantive
7 analysis, in addition to statistical informa-
8 tion.

9 “(ii) ACTIVITIES.—Not later than De-
10 cember 31 of each calendar year, the Tax-
11 payer Advocate shall report to the Commit-
12 tee on Ways and Means of the House of
13 Representatives and the Committee on Fi-
14 nance of the Senate on the activities of the
15 Taxpayer Advocate during the fiscal year
16 ending during such calendar year. Any
17 such report shall contain full and sub-
18 stantive analysis, in addition to statistical
19 information, and shall—

20 “(I) identify the initiatives the
21 Taxpayer Advocate has taken on im-
22 proving taxpayer services and Internal
23 Revenue Service responsiveness,

24 “(II) contain recommendations
25 received from individuals with the au-

1 thority to issue Taxpayer Assistance
2 Orders under section 7811,

3 “(III) contain a summary of at
4 least 20 of the most serious problems
5 encountered by taxpayers, including a
6 description of the nature of such prob-
7 lems,

8 “(IV) contain an inventory of the
9 items described in subclauses (I), (II),
10 and (III) for which action has been
11 taken and the result of such action,

12 “(V) contain an inventory of the
13 items described in subclauses (I), (II),
14 and (III) for which action remains to
15 be completed and the period during
16 which each item has remained on such
17 inventory,

18 “(VI) contain an inventory of the
19 items described in subclauses (I), (II),
20 and (III) for which no action has been
21 taken, the period during which each
22 item has remained on such inventory,
23 the reasons for the inaction, and iden-
24 tify any Internal Revenue Service offi-

1 cial who is responsible for such inac-
2 tion,

3 “(VII) identify any Taxpayer As-
4 sistance Order which was not honored
5 by the Internal Revenue Service in a
6 timely manner, as specified under sec-
7 tion 7811(b),

8 “(VIII) contain recommendations
9 for such administrative and legislative
10 action as may be appropriate to re-
11 solve problems encountered by tax-
12 payers,

13 “(IX) identify areas of the tax
14 law that impose significant compliance
15 burdens on taxpayers or the Internal
16 Revenue Service, including specific
17 recommendations for remedying these
18 problems,

19 “(X) in conjunction with the Na-
20 tional Director of Appeals, identify
21 the 10 most litigated issues for each
22 category of taxpayers, including rec-
23 ommendations for mitigating such dis-
24 putes, and

1 “(XI) include such other infor-
2 mation as the Taxpayer Advocate may
3 deem advisable.

4 “(iii) REPORT TO BE SUBMITTED DI-
5 RECTLY.—Each report required under this
6 subparagraph shall be provided directly to
7 the committees described in clauses (i) and
8 (ii) without any prior review or comment
9 from the Oversight Board, the Secretary of
10 the Treasury, any other officer or employee
11 of the Department of the Treasury, or the
12 Office of Management and Budget.

13 “(C) OTHER RESPONSIBILITIES.—The
14 Taxpayer Advocate shall—

15 “(i) monitor the coverage and geo-
16 graphic allocation of problem resolution of-
17 ficers, and

18 “(ii) develop guidance to be distrib-
19 uted to all Internal Revenue Service offi-
20 cers and employees outlining the criteria
21 for referral of taxpayer inquiries to prob-
22 lem resolution officers.

23 “(3) RESPONSIBILITIES OF COMMISSIONER.—
24 The Commissioner shall establish procedures requir-
25 ing a formal response to all recommendations sub-

1 mitted to the Commissioner by the Taxpayer Advoca-
2 cate within 3 months after submission to the Com-
3 missioner.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) The table of sections for subchapter A of
6 chapter 80 is amended by striking the item relating
7 to section 7803 and inserting the following new
8 item:

 “Sec. 7803. Commissioner of Internal Revenue; other officials.”.

9 (2) Subsection (b) of section 5109 of title 5,
10 United States Code, is amended by striking
11 “7802(b)” and inserting “7803(b)”.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by
14 this section shall take effect on the date of the en-
15 actment of this Act.

16 (2) CURRENT OFFICERS.—

17 (A) In the case of an individual serving as
18 Commissioner of Internal Revenue on the date
19 of the enactment of this Act who was appointed
20 to such position before such date, the 5-year
21 term required by section 7803(a)(1) of the In-
22 ternal Revenue Code of 1986, as added by this
23 section, shall begin as of the date of such ap-
24 pointment.

1 (B) Section 7803(c)(1)(B) of such Code,
2 as added by this section, shall not apply to the
3 individual serving as Taxpayer Advocate on the
4 date of the enactment of this Act.

5 **SEC. 103. OTHER PERSONNEL.**

6 (a) IN GENERAL.—Section 7804 (relating to the ef-
7 fect of reorganization plans) is amended to read as follows:

8 **“SEC. 7804. OTHER PERSONNEL.**

9 “(a) APPOINTMENT AND SUPERVISION.—Unless oth-
10 erwise prescribed by the Secretary, the Commissioner of
11 Internal Revenue is authorized to employ such number of
12 persons as the Commissioner deems proper for the admin-
13 istration and enforcement of the internal revenue laws,
14 and the Commissioner shall issue all necessary directions,
15 instructions, orders, and rules applicable to such persons.

16 “(b) POSTS OF DUTY OF EMPLOYEES IN FIELD
17 SERVICE OR TRAVELING.—Unless otherwise prescribed by
18 the Secretary—

19 “(1) DESIGNATION OF POST OF DUTY.—The
20 Commissioner shall determine and designate the
21 posts of duty of all such persons engaged in field
22 work or traveling on official business outside of the
23 District of Columbia.

24 “(2) DETAIL OF PERSONNEL FROM FIELD
25 SERVICE.—The Commissioner may order any such

1 person engaged in field work to duty in the District
2 of Columbia, for such periods as the Commissioner
3 may prescribe, and to any designated post of duty
4 outside the District of Columbia upon the comple-
5 tion of such duty.

6 “(c) DELINQUENT INTERNAL REVENUE OFFICERS
7 AND EMPLOYEES.—If any officer or employee of the
8 Treasury Department acting in connection with the inter-
9 nal revenue laws fails to account for and pay over any
10 amount of money or property collected or received by him
11 in connection with the internal revenue laws, the Secretary
12 shall issue notice and demand to such officer or employee
13 for payment of the amount which he failed to account for
14 and pay over, and, upon failure to pay the amount de-
15 manded within the time specified in such notice, the
16 amount so demanded shall be deemed imposed upon such
17 officer or employee and assessed upon the date of such
18 notice and demand, and the provisions of chapter 64 and
19 all other provisions of law relating to the collection of as-
20 sessed taxes shall be applicable in respect of such
21 amount.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subsection (b) of section 6344 is amended
24 by striking “section 7803(d)” and inserting “section
25 7804(e)”.

1 (2) The table of sections for subchapter A of
2 chapter 80 is amended by striking the item relating
3 to section 7804 and inserting the following new
4 item:

 “Sec. 7804. Other personnel.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on the date of the enactment
7 of this Act.

8 **SEC. 104. PROHIBITION ON EXECUTIVE BRANCH INFLU-**
9 **ENCE OVER TAXPAYER AUDITS AND OTHER**
10 **INVESTIGATIONS.**

11 (a) IN GENERAL.—Part I of subchapter A of chapter
12 75 (relating to crimes, other offenses, and forfeitures) is
13 amended by adding after section 7216 the following new
14 section:

15 **“SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLU-**
16 **ENCE OVER TAXPAYER AUDITS AND OTHER**
17 **INVESTIGATIONS.**

18 “(a) PROHIBITION.—It shall be unlawful for any ap-
19 plicable person to request any officer or employee of the
20 Internal Revenue Service to conduct or terminate an audit
21 or other investigation of any particular taxpayer with re-
22 spect to the tax liability of such taxpayer.

23 “(b) REPORTING REQUIREMENT.—Any officer or em-
24 ployee of the Internal Revenue Service receiving any re-
25 quest prohibited by subsection (a) shall report the receipt

1 of such request to the Chief Inspector of the Internal Rev-
2 enue Service.

3 “(c) EXCEPTIONS.—Subsection (a) shall not apply
4 to—

5 “(1) any request made to an applicable person
6 by the taxpayer or a representative of the taxpayer
7 and forwarded by such applicable person to the In-
8 ternal Revenue Service,

9 “(2) any request by an applicable person for
10 disclosure of return or return information under sec-
11 tion 6103 if such request is made in accordance with
12 the requirements of such section, or

13 “(3) any request by the Secretary of the Treas-
14 ury as a consequence of the implementation of a
15 change in tax policy.

16 “(d) PENALTY.—Any person who willfully violates
17 subsection (a) or fails to report under subsection (b) shall
18 be punished upon conviction by a fine in any amount not
19 exceeding \$5,000, or imprisonment of not more than 5
20 years, or both, together with the costs of prosecution.

21 “(e) APPLICABLE PERSON.—For purposes of this
22 section, the term ‘applicable person’ means—

23 “(1) the President, the Vice President, any em-
24 ployee of the executive office of the President, and

1 any employee of the executive office of the Vice
2 President, and

3 “(2) any individual (other than the Attorney
4 General of the United States) serving in a position
5 specified in section 5312 of title 5, United States
6 Code.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 for part I of subchapter A of chapter 75 is amended by
9 adding after the item relating to section 7216 the follow-
10 ing new item:

“Sec. 7217. Prohibition on executive branch influence over tax-
payer audits and other investigations.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to requests made after the date
13 of the enactment of this Act.

14 **Subtitle B—Personnel Flexibilities**

15 **SEC. 111. PERSONNEL FLEXIBILITIES.**

16 (a) IN GENERAL.—Part III of title 5, United States
17 Code, is amended by adding at the end the following new
18 subpart:

19 **“Subpart I—Miscellaneous**
20 **“CHAPTER 93—PERSONNEL FLEXIBILI-**
21 **TIES RELATING TO THE INTERNAL**
22 **REVENUE SERVICE**

“Sec.

“9301. General requirements.

“9302. Flexibilities relating to performance management.

“9303. Staffing flexibilities.

“9304. Flexibilities relating to demonstration projects.

1 **“§ 9301. General requirements**

2 “(a) CONFORMANCE WITH MERIT SYSTEM PRIN-
3 CIPLES, ETC.—Any flexibilities under this chapter shall
4 be exercised in a manner consistent with—

5 “(1) chapter 23, relating to merit system prin-
6 ciples and prohibited personnel practices; and

7 “(2) provisions of this title (outside of this sub-
8 part) relating to preference eligibles.

9 “(b) REQUIREMENT RELATING TO UNITS REP-
10 RESENTED BY LABOR ORGANIZATIONS.—

11 “(1) WRITTEN AGREEMENT REQUIRED.—Em-
12 ployees within a unit with respect to which a labor
13 organization is accorded exclusive recognition under
14 chapter 71 shall not be subject to the exercise of any
15 flexibility under section 9302, 9303, or 9304, unless
16 there is a written agreement between the Internal
17 Revenue Service and the organization permitting
18 such exercise.

19 “(2) DEFINITION OF A WRITTEN AGREE-
20 MENT.—In order to satisfy paragraph (1), a written
21 agreement—

22 “(A) need not be a collective bargaining
23 agreement within the meaning of section
24 7103(8); and

1 “(A) establishing standards of performance
2 which—

3 “(i) shall permit the accurate evalua-
4 tion of each employee’s performance on the
5 basis of the individual and organizational
6 performance requirements applicable with
7 respect to the evaluation period involved,
8 taking into account individual contribu-
9 tions toward the attainment of any goals
10 or objectives under paragraph (3);

11 “(ii) shall be communicated to an em-
12 ployee before the start of any period with
13 respect to which the performance of such
14 employee is to be evaluated using such
15 standards; and

16 “(iii) shall include at least 2 stand-
17 ards of performance, the lowest of which
18 shall denote the retention standard and
19 shall be equivalent to fully successful per-
20 formance;

21 “(B) providing for periodic performance
22 evaluations to determine whether employees are
23 meeting all applicable retention standards; and

24 “(C) using the results of such employee’s
25 performance evaluation as a basis for adjust-

1 ments in pay and other appropriate personnel
2 actions; and

3 “(3) shall provide for (A) establishing goals or
4 objectives for individual, group, or organizational
5 performance (or any combination thereof), consistent
6 with Internal Revenue Service performance planning
7 procedures, including those established under the
8 Government Performance and Results Act of 1993,
9 the Information Technology Management Reform
10 Act of 1996, Revenue Procedure 64–22 (as in effect
11 on July 30, 1997), and taxpayer service surveys, (B)
12 communicating such goals or objectives to employ-
13 ees, and (C) using such goals or objectives to make
14 performance distinctions among employees or groups
15 of employees.

16 For purposes of this title, performance of an employee
17 during any period in which such employee is subject to
18 standards of performance under paragraph (2) shall be
19 considered to be ‘unacceptable’ if the performance of such
20 employee during such period fails to meet any retention
21 standard.

22 “(b) AWARDS.—

23 “(1) FOR SUPERIOR ACCOMPLISHMENTS.—In
24 the case of a proposed award based on the efforts
25 of an employee or former employee of the Internal

1 Revenue Service, any approval required under the
2 provisions of section 4502(b) shall be considered to
3 have been granted if the Office of Personnel Man-
4 agement does not disapprove the proposed award
5 within 60 days after receiving the appropriate cer-
6 tification described in such provisions.

7 “(2) FOR EMPLOYEES WHO REPORT DIRECTLY
8 TO THE COMMISSIONER.—

9 “(A) IN GENERAL.—In the case of an em-
10 ployee of the Internal Revenue Service who re-
11 ports directly to the Commissioner of Internal
12 Revenue, a cash award in an amount up to 50
13 percent of such employee’s annual rate of basic
14 pay may be made if the Commissioner finds
15 such an award to be warranted based on such
16 employee’s performance.

17 “(B) NATURE OF AN AWARD.—A cash
18 award under this paragraph shall not be consid-
19 ered to be part of basic pay.

20 “(C) TAX ENFORCEMENT RESULTS.—A
21 cash award under this paragraph may not be
22 based solely on tax enforcement results.

23 “(D) ELIGIBLE EMPLOYEES.—Whether or
24 not an employee is an employee who reports di-
25 rectly to the Commissioner of Internal Revenue

1 shall, for purposes of this paragraph, be deter-
2 mined under regulations which the Commis-
3 sioner shall prescribe, except that in no event
4 shall more than 8 employees be eligible for a
5 cash award under this paragraph in any cal-
6 endar year.

7 “(E) LIMITATION ON COMPENSATION.—
8 For purposes of applying section 5307 to an
9 employee in connection with any calendar year
10 to which an award made under this paragraph
11 to such employee is attributable, subsection
12 (a)(1) of such section shall be applied by sub-
13 stituting ‘to equal or exceed the annual rate of
14 compensation for the Vice President for such
15 calendar year’ for ‘to exceed the annual rate of
16 basic pay payable for level I of the Executive
17 Schedule, as of the end of such calendar year’.

18 “(F) APPROVAL REQUIRED.—An award
19 under this paragraph may not be made un-
20 less—

21 “(i) the Commissioner of Internal
22 Revenue certifies to the Office of Personnel
23 Management that such award is war-
24 ranted; and

1 “(ii) the Office approves, or does not
2 disapprove, the proposed award within 60
3 days after the date on which it is so cer-
4 tified.

5 “(3) BASED ON SAVINGS.—

6 “(A) IN GENERAL.—The Commissioner of
7 Internal Revenue may authorize the payment of
8 cash awards to employees based on documented
9 financial savings achieved by a group or organi-
10 zation which such employees comprise, if such
11 payments are made pursuant to a plan which—

12 “(i) specifies minimum levels of serv-
13 ice and quality to be maintained while
14 achieving such financial savings; and

15 “(ii) is in conformance with criteria
16 prescribed by the Office of Personnel Man-
17 agement.

18 “(B) FUNDING.—A cash award under this
19 paragraph may be paid from the fund or appro-
20 priation available to the activity primarily bene-
21 fitting or the various activities benefiting.

22 “(C) TAX ENFORCEMENT RESULTS.—A
23 cash award under this paragraph may not be
24 based solely on tax enforcement results.

25 “(c) OTHER PROVISIONS.—

1 “(1) NOTICE PROVISIONS.—In applying sections
2 4303(b)(1)(A) and 7513(b)(1) to employees of the
3 Internal Revenue Service, ‘15 days’ shall be sub-
4 stituted for ‘30 days’.

5 “(2) APPEALS.—Notwithstanding the second
6 sentence of section 5335(c), an employee of the In-
7 ternal Revenue Service shall not have a right to ap-
8 peal the denial of a periodic step increase under sec-
9 tion 5335 to the Merit Systems Protection Board.

10 **“§ 9303. Staffing flexibilities**

11 “(a) ELIGIBILITY TO COMPETE FOR A PERMANENT
12 APPOINTMENT IN THE COMPETITIVE SERVICE.—

13 “(1) ELIGIBILITY OF QUALIFIED VETERANS.—

14 “(A) IN GENERAL.—No veteran described
15 in subparagraph (B) shall be denied the oppor-
16 tunity to compete for an announced vacant
17 competitive service position within the Internal
18 Revenue Service by reason of—

19 “(i) not having acquired competitive
20 status; or

21 “(ii) not being an employee of that
22 agency.

23 “(B) DESCRIPTION.—An individual shall,
24 for purposes of a position for which such indi-
25 vidual is applying, be considered a veteran de-

1 scribed in this subparagraph if such individ-
2 ual—

3 “(i) is either a preference eligible, or
4 an individual (other than a preference eli-
5 gible) who has been separated from the
6 armed forces under honorable conditions
7 after at least 3 years of active service; and

8 “(ii) meets the minimum qualification
9 requirements for the position sought.

10 “(2) ELIGIBILITY OF CERTAIN TEMPORARY EM-
11 PLOYEES.—

12 “(A) IN GENERAL.—No temporary em-
13 ployee described in subparagraph (B) shall be
14 denied the opportunity to compete for an an-
15 nounced vacant competitive service position
16 within the Internal Revenue Service by reason
17 of not having acquired competitive status.

18 “(B) DESCRIPTION.—An individual shall,
19 for purposes of a position for which such indi-
20 vidual is applying, be considered a temporary
21 employee described in this subparagraph if—

22 “(i) such individual is then currently
23 serving as a temporary employee in the In-
24 ternal Revenue Service;

1 “(ii) such individual has completed at
2 least 2 years of current continuous service
3 in the competitive service under 1 or more
4 term appointments, each of which was
5 made under competitive procedures pre-
6 scribed for permanent appointments;

7 “(iii) such individual’s performance
8 under each term appointment referred to
9 in clause (ii) met all applicable retention
10 standards; and

11 “(iv) such individual meets the mini-
12 mum qualification requirements for the po-
13 sition sought.

14 “(b) RATING SYSTEMS.—

15 “(1) IN GENERAL.—Notwithstanding sub-
16 chapter I of chapter 33, the Commissioner of Inter-
17 nal Revenue may establish category rating systems
18 for evaluating job applicants for positions in the
19 competitive service, under which qualified candidates
20 are divided into 2 or more quality categories on the
21 basis of relative degrees of merit, rather than as-
22 signed individual numerical ratings. Each applicant
23 who meets the minimum qualification requirements
24 for the position to be filled shall be assigned to an
25 appropriate category based on an evaluation of the

1 applicant’s knowledge, skills, and abilities relative to
2 those needed for successful performance in the job
3 to be filled.

4 “(2) TREATMENT OF PREFERENCE ELIGI-
5 BLES.—Within each quality category established
6 under paragraph (1), preference eligibles shall be
7 listed ahead of individuals who are not preference
8 eligibles. For other than scientific and professional
9 positions at or higher than GS–9 (or equivalent),
10 preference eligibles who have a compensable service-
11 connected disability of 10 percent or more, and who
12 meet the minimum qualification standards, shall be
13 listed in the highest quality category.

14 “(3) SELECTION PROCESS.—An appointing au-
15 thority may select any applicant from the highest
16 quality category or, if fewer than 3 candidates have
17 been assigned to the highest quality category, from
18 a merged category consisting of the highest and sec-
19 ond highest quality categories. Notwithstanding the
20 preceding sentence, the appointing authority may
21 not pass over a preference eligible in the same or a
22 higher category from which selection is made, unless
23 the requirements of section 3317(b) or 3318(b), as
24 applicable, are satisfied, except that in no event may
25 certification of a preference eligible under this sub-

1 section be discontinued by the Internal Revenue
2 Service under section 3317(b) before the end of the
3 6-month period beginning on the date of such em-
4 ployee's first certification.

5 “(c) INVOLUNTARY REASSIGNMENTS AND REMOVALS
6 OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE
7 SERVICE.—Neither section 3395(e)(1) nor section
8 3592(b)(1) shall apply with respect to the Internal Reve-
9 nue Service.

10 “(d) PROBATIONARY PERIODS.—Notwithstanding
11 any other provision of law or regulation, the Commissioner
12 of Internal Revenue may establish a period of probation
13 under section 3321 of up to 3 years for any position if,
14 as determined by the Commissioner, a shorter period
15 would be insufficient for the incumbent to demonstrate
16 complete proficiency in such position.

17 “(e) PROVISIONS THAT REMAIN APPLICABLE.—No
18 provision of this section exempts the Internal Revenue
19 Service from—

20 “(1) any employment priorities established
21 under direction of the President for the placement of
22 surplus or displaced employees; or

23 “(2) its obligations under any court order or
24 decree relating to the employment practices of the
25 Internal Revenue Service.

1 **“§ 9304. Flexibilities relating to demonstration**
2 **projects**

3 “(a) **AUTHORITY TO CONDUCT.**—The Commissioner
4 of Internal Revenue may, in accordance with this section,
5 conduct 1 or more demonstration projects to improve per-
6 sonnel management; provide increased individual account-
7 ability; eliminate obstacles to the removal of or imposing
8 any disciplinary action with respect to poor performers,
9 subject to the requirements of due process; expedite ap-
10 peals from adverse actions or performance-based actions;
11 and promote pay based on performance.

12 “(b) **GENERAL REQUIREMENTS.**—Except as provided
13 in subsection (c), each demonstration project under this
14 section shall comply with the provisions of section 4703.

15 “(c) **SPECIAL RULES.**—For purposes of any dem-
16 onstration project under this section—

17 “(1) **AUTHORITY OF COMMISSIONER.**—The
18 Commissioner of Internal Revenue shall exercise the
19 authority provided to the Office of Personnel Man-
20 agement under section 4703.

21 “(2) **PROVISIONS NOT APPLICABLE.**—The fol-
22 lowing provisions of section 4703 shall not apply:

23 “(A) Paragraphs (3) through (6) of sub-
24 section (b).

25 “(B) Paragraphs (1), (2)(B)(ii), and (4) of
26 subsection (c).

1 “(C) Subsections (d) through (g).

2 “(d) NOTIFICATION REQUIRED TO BE GIVEN.—

3 “(1) TO EMPLOYEES.—The Commissioner of
4 Internal Revenue shall notify employees likely to be
5 affected by a project proposed under this section at
6 least 90 days in advance of the date such project is
7 to take effect.

8 “(2) TO CONGRESS AND OPM.—The Commis-
9 sioner of Internal Revenue shall, with respect to
10 each demonstration project under this section, pro-
11 vide each House of Congress and the Office of Per-
12 sonnel Management with a report, at least 30 days
13 in advance of the date such project is to take effect,
14 setting forth the final version of the plan for such
15 project. Such report shall, with respect to the project
16 to which it relates, include the information specified
17 in section 4703(b)(1).

18 “(e) LIMITATIONS.—No demonstration project under
19 this section may—

20 “(1) provide for a waiver of any regulation pre-
21 scribed under any provision of law referred to in
22 paragraph (2)(B)(i) or (3) of section 4703(c);

23 “(2) provide for a waiver of subchapter V of
24 chapter 63 or subpart G of part III (or any regula-
25 tions prescribed under such subchapter or subpart);

1 “(3) provide for a waiver of any law or regula-
2 tion relating to preference eligibles as defined in sec-
3 tion 2108 or subchapter II or III of chapter 73 (or
4 any regulations prescribed thereunder);

5 “(4) permit collective bargaining over pay or
6 benefits, or require collective bargaining over any
7 matter which would not be required under section
8 7106; or

9 “(5) include a system for measuring perform-
10 ance that provides for only 1 level of performance at
11 or above the level of fully successful or better.

12 “(f) PERMISSIBLE PROJECTS.—Notwithstanding any
13 other provision of law, a demonstration project under this
14 section—

15 “(1) may establish alternative means of resolv-
16 ing any dispute within the jurisdiction of the Equal
17 Employment Opportunity Commission, the Merit
18 Systems Protection Board, the Federal Labor Rela-
19 tions Authority, or the Federal Service Impasses
20 Panel; and

21 “(2) may permit the Internal Revenue Service
22 to adopt any alternative dispute resolution procedure
23 that a private entity may lawfully adopt.

24 “(g) CONSULTATION AND COORDINATION.—The
25 Commissioner of Internal Revenue shall consult with the

1 Director of the Office of Personnel Management in the
2 development and implementation of each demonstration
3 project under this section and shall submit such reports
4 to the Director as the Director may require. The Director
5 or the Commissioner of Internal Revenue may terminate
6 a demonstration project under this section if either of
7 them determines that the project creates a substantial
8 hardship on, or is not in the best interests of, the public,
9 the Federal Government, employees, or qualified appli-
10 cants for employment with the Internal Revenue Service.

11 “(h) TERMINATION.—Each demonstration project
12 under this section shall terminate before the end of the
13 5-year period beginning on the date on which the project
14 takes effect, except that any such project may continue
15 beyond the end of such period, for not to exceed 2 years,
16 if the Commissioner of Internal Revenue, with the concur-
17 rence of the Director, determines such extension is nec-
18 essary to validate the results of the project. Not later than
19 6 months before the end of the 5-year period and any ex-
20 tension under the preceding sentence, the Commissioner
21 of Internal Revenue shall, with respect to the demonstra-
22 tion project involved, submit a legislative proposal to the
23 Congress if the Commissioner determines that such
24 project should be made permanent, in whole or in part.”.

1 (b) CLERICAL AMENDMENT.—The analysis for part
 2 III of title 5, United States Code, is amended by adding
 3 at the end the following:

“Subpart I—Miscellaneous

“93. Personnel Flexibilities Relating to the Internal Revenue
 Service 9301”.

4 (c) EFFECTIVE DATE.—This section shall take effect
 5 on the date of enactment of this Act.

6 **TITLE II—ELECTRONIC FILING**

7 **SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION**

8 **RETURNS.**

9 (a) IN GENERAL.—It is the policy of the Congress
 10 that paperless filing should be the preferred and most con-
 11 venient means of filing tax and information returns, and
 12 that by the year 2007, no more than 20 percent of all
 13 such returns should be filed on paper.

14 (b) STRATEGIC PLAN.—

15 (1) IN GENERAL.—Not later than 180 days
 16 after the date of the enactment of this Act, the Sec-
 17 retary of the Treasury or the Secretary’s delegate
 18 (hereafter in this section referred to as the “Sec-
 19 retary”) shall establish a plan to eliminate barriers,
 20 provide incentives, and use competitive market
 21 forces to increase electronic filing gradually over the
 22 next 10 years while maintaining processing times for
 23 paper returns at 40 days. To the extent practicable,

1 such plan shall provide that all returns prepared
2 electronically for taxable years beginning after 2001
3 shall be filed electronically.

4 (2) ELECTRONIC COMMERCE ADVISORY
5 GROUP.—To ensure that the Secretary receives input
6 from the private sector in the development and im-
7 plementation of the plan required by paragraph (1),
8 the Secretary shall convene an electronic commerce
9 advisory group to include representatives from the
10 small business community and from the tax practi-
11 tioner, preparer, and computerized tax processor
12 communities and other representatives from the elec-
13 tronic filing industry.

14 (c) PROMOTION OF ELECTRONIC FILING AND INCEN-
15 TIVES.—Section 6011 is amended by redesignating sub-
16 section (f) as subsection (g) and by inserting after sub-
17 section (e) the following new subsection:

18 “(f) PROMOTION OF ELECTRONIC FILING.—

19 “(1) IN GENERAL.—The Secretary is authorized
20 to promote the benefits of and encourage the use of
21 electronic tax administration programs, as they be-
22 come available, through the use of mass communica-
23 tions and other means.

1 “(2) INCENTIVES.—The Secretary may imple-
2 ment procedures to provide for the payment of ap-
3 propriate incentives for electronically filed returns.”.

4 (d) ANNUAL REPORTS.—Not later than June 30 of
5 each calendar year after 1997, the Chairperson of the In-
6 ternal Revenue Service Oversight Board, the Secretary,
7 and the Chairperson of the electronic commerce advisory
8 group established under subsection (b)(2) shall report to
9 the Committees on Ways and Means, Appropriations, and
10 Government Reform and Oversight of the House of Rep-
11 resentatives, the Committees on Finance, Appropriations,
12 and Government Affairs of the Senate, and the Joint Com-
13 mittee on Taxation, on—

14 (1) the progress of the Internal Revenue Serv-
15 ice in meeting the goal of receiving electronically 80
16 percent of tax and information returns by 2007;

17 (2) the status of the plan required by sub-
18 section (b); and

19 (3) the legislative changes necessary to assist
20 the Internal Revenue Service in meeting such goal.

21 **SEC. 202. DUE DATE FOR CERTAIN INFORMATION RETURNS**

22 **FILED ELECTRONICALLY.**

23 (a) IN GENERAL.—Section 6071 (relating to time for
24 filing returns and other documents) is amended by redес-

1 ignating subsection (b) as subsection (c) and by inserting
2 after subsection (a) the following new subsection:

3 “(b) ELECTRONICALLY FILED INFORMATION RE-
4 TURNS.—Returns made under subparts B and C of part
5 III of this subchapter which are filed electronically shall
6 be filed on or before March 31 of the year following the
7 calendar year to which such returns relate.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to returns required to be filed after
10 December 31, 1999.

11 **SEC. 203. PAPERLESS ELECTRONIC FILING.**

12 (a) IN GENERAL.—Section 6061 (relating to signing
13 of returns and other documents) is amended—

14 (1) by striking “Except as otherwise provided
15 by” and inserting the following:

16 “(a) GENERAL RULE.—Except as otherwise provided
17 by subsection (b) and”, and

18 (2) by adding at the end the following new sub-
19 section:

20 “(b) ELECTRONIC SIGNATURES.—

21 “(1) IN GENERAL.—The Secretary shall develop
22 procedures for the acceptance of signatures in digital
23 or other electronic form. Until such time as such
24 procedures are in place, the Secretary may waive the
25 requirement of a signature for all returns or classes

1 of returns, or may provide for alternative methods of
2 subscribing all returns, declarations, statements, or
3 other documents required or permitted to be made
4 or written under internal revenue laws and regula-
5 tions.

6 “(2) TREATMENT OF ALTERNATIVE METH-
7 ODS.—Notwithstanding any other provision of law,
8 any return, declaration, statement or other docu-
9 ment filed without signature under the authority of
10 this subsection or verified, signed or subscribed
11 under any method adopted under paragraph (1)
12 shall be treated for all purposes (both civil and
13 criminal, including penalties for perjury) in the same
14 manner as though signed and subscribed. Any such
15 return, declaration, statement or other document
16 shall be presumed to have been actually submitted
17 and subscribed by the person on whose behalf it was
18 submitted.

19 “(3) PUBLISHED GUIDANCE.—The Secretary
20 shall publish guidance as appropriate to define and
21 implement any waiver of the signature require-
22 ments.”.

23 (b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—
24 Section 7502(c) is amended to read as follows:

1 “(c) REGISTERED AND CERTIFIED MAILING; ELEC-
2 TRONIC FILING.—

3 “(1) REGISTERED MAIL.—For purposes of this
4 section, if any return, claim, statement, or other
5 document, or payment, is sent by United States reg-
6 istered mail—

7 “(A) such registration shall be prima facie
8 evidence that the return, claim, statement, or
9 other document was delivered to the agency, of-
10 ficer, or office to which addressed, and

11 “(B) the date of registration shall be
12 deemed the postmark date.

13 “(2) CERTIFIED MAIL; ELECTRONIC FILING.—
14 The Secretary is authorized to provide by regula-
15 tions the extent to which the provisions of paragraph
16 (1) with respect to prima facie evidence of delivery
17 and the postmark date shall apply to certified mail
18 and electronic filing.”.

19 (c) ESTABLISHMENT OF PROCEDURES FOR OTHER
20 INFORMATION.—In the case of taxable periods beginning
21 after December 31, 1998, the Secretary of the Treasury
22 or the Secretary’s delegate shall, to the extent practicable,
23 establish procedures to accept, in electronic form, any
24 other information, statements, elections, or schedules,

1 from taxpayers filing returns electronically, so that such
2 taxpayers will not be required to file any paper.

3 (d) PROCEDURES FOR COMMUNICATIONS BETWEEN
4 IRS AND PREPARER OF ELECTRONICALLY FILED RE-
5 TURNS.—The Secretary shall establish procedures for tax-
6 payers to authorize, on electronically filed returns, the pre-
7 parer of such returns to communicate with the Internal
8 Revenue Service on matters included on such returns.

9 (e) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 204. RETURN-FREE TAX SYSTEM.**

13 (a) IN GENERAL.—The Secretary of the Treasury or
14 the Secretary's delegate shall develop procedures for the
15 implementation of a return-free tax system under which
16 appropriate individuals would be permitted to comply with
17 the Internal Revenue Code of 1986 without making the
18 return required under section 6012 of such Code for tax-
19 able years beginning after 2007.

20 (b) REPORT.—Not later than June 30 of each cal-
21 endar year after 1999, such Secretary shall report to the
22 Committee on Ways and Means of the House of Rep-
23 resentatives, the Committee on Finance of the Senate, and
24 the Joint Committee on Taxation on—

1 (1) what additional resources the Internal Reve-
2 nue Service would need to implement such a system,

3 (2) the changes to the Internal Revenue Code
4 of 1986 that could enhance the use of such a sys-
5 tem,

6 (3) the procedures developed pursuant to sub-
7 section (a), and

8 (4) the number and classes of taxpayers that
9 would be permitted to use the procedures developed
10 pursuant to subsection (a).

11 **SEC. 205. ACCESS TO ACCOUNT INFORMATION.**

12 Not later than December 31, 2006, the Secretary of
13 the Treasury or the Secretary's delegate shall develop pro-
14 cedures under which a taxpayer filing returns electroni-
15 cally would be able to review the taxpayer's account elec-
16 tronically, but only if all necessary safeguards to ensure
17 the privacy of such account information are in place.

18 **TITLE III—TAXPAYER**
19 **PROTECTION AND RIGHTS**

20 **SEC. 300. SHORT TITLE.**

21 This title may be cited as the “Taxpayer Bill of
22 Rights 3”.

1 **Subtitle A—Burden of Proof**

2 **SEC. 301. BURDEN OF PROOF.**

3 (a) IN GENERAL.—Chapter 76 (relating to judicial
4 proceedings) is amended by adding at the end the follow-
5 ing new subchapter:

6 **“Subchapter E—Burden of Proof**

 “Sec. 7491. Burden of proof.

7 **“SEC. 7491. BURDEN OF PROOF.**

8 “(a) GENERAL RULE.—The Secretary shall have the
9 burden of proof in any court proceeding with respect to
10 any factual issue relevant to ascertaining the income tax
11 liability of a taxpayer.

12 “(b) LIMITATIONS.—Subsection (a) shall only apply
13 with respect to an issue if—

14 “(1) the taxpayer asserts a reasonable dispute
15 with respect to such issue,

16 “(2) the taxpayer has fully cooperated with the
17 Secretary with respect to such issue, including pro-
18 viding, within a reasonable period of time, access to
19 and inspection of all witnesses, information, and
20 documents within the control of the taxpayer, as rea-
21 sonably requested by the Secretary, and

22 “(3) in the case of a partnership, corporation,
23 or trust, the taxpayer is described in section
24 7430(c)(4)(A)(ii).

1 “(c) SUBSTANTIATION.—Nothing in this section shall
2 be construed to override any requirement of this title to
3 substantiate any item.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 6201 is amended by striking sub-
6 section (d) and redesignating subsection (e) as sub-
7 section (d).

8 (2) The table of subchapters for chapter 76 is
9 amended by adding at the end the following new
10 item:

“Subchapter E. Burden of proof.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to court proceedings arising in con-
13 nection with examinations commencing after the date of
14 the enactment of this Act.

15 **Subtitle B—Proceedings by**
16 **Taxpayers**

17 **SEC. 311. EXPANSION OF AUTHORITY TO AWARD COSTS**
18 **AND CERTAIN FEES.**

19 (a) AWARD OF HIGHER ATTORNEY’S FEES BASED
20 ON COMPLEXITY OF ISSUES.—Clause (iii) of section
21 7430(c)(1)(B) (relating to the award of costs and certain
22 fees) is amended by inserting “the difficulty of the issues
23 presented in the case, or the local availability of tax exper-
24 tise,” before “justifies a higher rate”.

1 (b) AWARD OF ADMINISTRATIVE COSTS INCURRED
2 AFTER 30-DAY LETTER.—Paragraph (2) of section
3 7430(c) is amended by striking the last sentence and in-
4 serting the following:

5 “Such term shall only include costs incurred on or
6 after whichever of the following is the earliest: (i)
7 the date of the receipt by the taxpayer of the notice
8 of the decision of the Internal Revenue Service Of-
9 fice of Appeals, (ii) the date of the notice of defi-
10 ciency, or (iii) the date on which the 1st letter of
11 proposed deficiency which allows the taxpayer an op-
12 portunity for administrative review in the Internal
13 Revenue Service Office of Appeals is sent.”.

14 (c) AWARD OF FEES FOR CERTAIN ADDITIONAL
15 SERVICES.—Paragraph (3) of section 7430(c) is amended
16 to read as follows:

17 “(3) ATTORNEY’S FEES.—

18 “(A) IN GENERAL.—For purposes of para-
19 graphs (1) and (2), fees for the services of an
20 individual (whether or not an attorney) who is
21 authorized to practice before the Tax Court or
22 before the Internal Revenue Service shall be
23 treated as fees for the services of an attorney.

24 “(B) PRO BONO SERVICES.—In any case in
25 which the court could have awarded attorney’s

1 fees under subsection (a) but for the fact that
2 an individual is representing the prevailing
3 party for no fee or for a fee which (taking into
4 account all the facts and circumstances) is no
5 more than a nominal fee, the court may also
6 award a judgment or settlement for such
7 amounts as the court determines to be appro-
8 priate (based on hours worked and costs ex-
9 pended) for services of such individual but only
10 if such award is paid to such individual or such
11 individual's employer.”.

12 (d) DETERMINATION OF WHETHER POSITION OF
13 UNITED STATES IS SUBSTANTIALLY JUSTIFIED.—Sub-
14 paragraph (B) of section 7430(e)(4) is amended by redes-
15 ignating clause (iii) as clause (iv) and by inserting after
16 clause (ii) the following new clause:

17 “(iii) EFFECT OF LOSING ON SUB-
18 STANTIALLY SIMILAR ISSUES.—In deter-
19 mining for purposes of clause (i) whether
20 the position of the United States was sub-
21 stantially justified, the court shall take
22 into account whether the United States
23 has lost in courts of appeal for other cir-
24 cuits on substantially similar issues.”.

1 (e) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to costs incurred (and, in the case
 3 of the amendment made by subsection (c), services per-
 4 formed) more than 180 days after the date of the enact-
 5 ment of this Act.

6 **SEC. 312. CIVIL DAMAGES FOR NEGLIGENCE IN COLLEC-**
 7 **TION ACTIONS.**

8 (a) IN GENERAL.—Section 7433 (relating to civil
 9 damages for certain unauthorized collection actions) is
 10 amended—

11 (1) in subsection (a), by inserting “, or by rea-
 12 son of negligence,” after “recklessly or inten-
 13 tionally”, and

14 (2) in subsection (b)—

15 (A) in the matter preceding paragraph (1),
 16 by inserting “(\$100,000, in the case of neg-
 17 ligence)” after “\$1,000,000”, and

18 (B) in paragraph (1), by inserting “or neg-
 19 ligent” after “reckless or intentional”.

20 (b) REQUIREMENT THAT ADMINISTRATIVE REM-
 21 EDIES BE EXHAUSTED.—Paragraph (1) of section
 22 7433(d) is amended to read as follows:

23 “(1) REQUIREMENT THAT ADMINISTRATIVE
 24 REMEDIES BE EXHAUSTED.—A judgment for dam-
 25 ages shall not be awarded under subsection (b) un-

1 less the court determines that the plaintiff has ex-
2 hausted the administrative remedies available to
3 such plaintiff within the Internal Revenue Service.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to actions of officers or employees
6 of the Internal Revenue Service after the date of the en-
7 actment of this Act.

8 **SEC. 313. INCREASE IN SIZE OF CASES PERMITTED ON**
9 **SMALL CASE CALENDAR.**

10 (a) IN GENERAL.—Subsection (a) of section 7463
11 (relating to disputes involving \$10,000 or less) is amended
12 by striking “\$10,000” each place it appears and inserting
13 “\$25,000”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) The section heading for section 7463 is
16 amended by striking “**\$10,000**” and inserting
17 “**\$25,000**”.

18 (2) The item relating to section 7463 in the
19 table of sections for part II of subchapter C of chap-
20 ter 76 is amended by striking “\$10,000” and insert-
21 ing “\$25,000”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to proceedings commencing after
24 the date of the enactment of this Act.

1 **Subtitle C—Relief for Innocent**
2 **Spouses and for Taxpayers Un-**
3 **able To Manage Their Financial**
4 **Affairs Due to Disabilities**

5 **SEC. 321. SPOUSE RELIEVED IN WHOLE OR IN PART OF LI-**
6 **ABILITY IN CERTAIN CASES.**

7 (a) IN GENERAL.—Subpart B of part II of sub-
8 chapter A of chapter 61 is amended by inserting after sec-
9 tion 6014 the following new section:

10 **“SEC. 6015. INNOCENT SPOUSE RELIEF; PETITION TO TAX**
11 **COURT.**

12 “(a) SPOUSE RELIEVED OF LIABILITY IN CERTAIN
13 CASES.—

14 “(1) IN GENERAL.—Under procedures pre-
15 scribed by the Secretary, if—

16 “(A) a joint return has been made under
17 section 6013 for a taxable year,

18 “(B) on such return there is an under-
19 statement of tax attributable to erroneous items
20 of 1 spouse,

21 “(C) the other spouse establishes that in
22 signing the return he or she did not know, and
23 had no reason to know, that there was such un-
24 derstatement,

1 “(D) taking into account all the facts and
2 circumstances, it is inequitable to hold the other
3 spouse liable for the deficiency in tax for such
4 taxable year attributable to such understate-
5 ment, and

6 “(E) the other spouse claims (in such form
7 as the Secretary may prescribe) the benefits of
8 this subsection not later than the date which is
9 2 years after the date of the assessment of such
10 deficiency,

11 then the other spouse shall be relieved of liability for
12 tax (including interest, penalties, and other
13 amounts) for such taxable year to the extent such li-
14 ability is attributable to such understatement.

15 “(2) APPORTIONMENT OF RELIEF.—If a spouse
16 who, but for paragraph (1)(C), would be relieved of
17 liability under paragraph (1), establishes that in
18 signing the return such spouse did not know, and
19 had no reason to know, the extent of such under-
20 statement, then such spouse shall be relieved of li-
21 ability for tax (including interest, penalties, and
22 other amounts) for such taxable year to the extent
23 that such liability is attributable to the portion of
24 such understatement of which such spouse did not
25 know and had no reason to know.

1 “(3) UNDERSTATEMENT.—For purposes of this
2 subsection, the term ‘understatement’ has the mean-
3 ing given to such term by section 6662(d)(2)(A).

4 “(4) SPECIAL RULE FOR COMMUNITY PROP-
5 ERTY INCOME.—For purposes of this subsection, the
6 determination of the spouse to whom items of gross
7 income (other than gross income from property) are
8 attributable shall be made without regard to commu-
9 nity property laws.

10 “(b) PETITION FOR REVIEW BY TAX COURT.—In the
11 case of an individual who has filed a claim under sub-
12 section (a) within the period specified in subsection
13 (a)(1)(E)—

14 “(1) IN GENERAL.—Such individual may peti-
15 tion the Tax Court (and the Tax Court shall have
16 jurisdiction) to determine such claim if such petition
17 is filed during the 90-day period beginning on the
18 earlier of—

19 “(A) the date which is 6 months after the
20 date such claim is filed with the Secretary, or

21 “(B) the date on which the Secretary mails
22 by certified or registered mail a notice to such
23 individual denying such claim.

1 Such 90-day period shall be determined by not
2 counting Saturday, Sunday, or a legal holiday in the
3 District of Columbia as the last day of such period.

4 “(2) RESTRICTIONS APPLICABLE TO COLLEC-
5 TION OF ASSESSMENT.—

6 “(A) IN GENERAL.—Except as otherwise
7 provided in section 6851 or 6861, no levy or
8 proceeding in court for collection of any assess-
9 ment to which such claim relates shall be made,
10 begun, or prosecuted, until the expiration of the
11 90-day period described in paragraph (1), nor,
12 if a petition has been filed with the Tax Court,
13 until the decision of the Tax Court has become
14 final. Rules similar to the rules of section 7485
15 shall apply with respect to the collection of such
16 assessment.

17 “(B) AUTHORITY TO ENJOIN COLLECTION
18 ACTIONS.—Notwithstanding the provisions of
19 section 7421(a), the beginning of such proceed-
20 ing or levy during the time the prohibition
21 under subparagraph (A) is in force may be en-
22 joined by a proceeding in the proper court, in-
23 cluding the Tax Court. The Tax Court shall
24 have no jurisdiction under this paragraph to en-
25 join any action or proceeding unless a timely

1 petition for a determination of such claim has
2 been filed and then only in respect of the
3 amount of the assessment to which such claim
4 relates.

5 “(C) JEOPARDY COLLECTION.—If the Sec-
6 retary makes a finding that the collection of the
7 tax is in jeopardy, nothing in this subsection
8 shall prevent the immediate collection of such
9 tax.

10 “(c) SUSPENSION OF RUNNING OF PERIOD OF LIM-
11 TATIONS.—The running of the period of limitations in sec-
12 tion 6502 on the collection of the assessment to which the
13 petition under subsection (b) relates shall be suspended
14 for the period during which the Secretary is prohibited by
15 subsection (b) from collecting by levy or a proceeding in
16 court and for 60 days thereafter.

17 “(d) APPLICABLE RULES.—

18 “(1) ALLOWANCE OF APPLICATION.—Except as
19 provided in paragraph (2), notwithstanding any
20 other law or rule of law (other than section 6512(b),
21 7121, or 7122), credit or refund shall be allowed or
22 made to the extent attributable to the application of
23 this section.

24 “(2) RES JUDICATA.—In the case of any claim
25 under subsection (a), the determination of the Tax

1 Court in any prior proceeding for the same taxable
2 periods in which the decision has become final, shall
3 be conclusive except with respect to the qualification
4 of the spouse for relief which was not an issue in
5 such proceeding. The preceding sentence shall not
6 apply if the Tax Court determines that the spouse
7 participated meaningfully in such prior proceeding.

8 “(3) LIMITATION ON TAX COURT JURISDIC-
9 TION.—If a suit for refund is begun by either spouse
10 pursuant to section 6532, the Tax Court shall lose
11 jurisdiction of the spouse’s action under this section
12 to whatever extent jurisdiction is acquired by the
13 district court or the United States Court of Federal
14 Claims over the taxable years that are the subject of
15 the suit for refund.”.

16 (b) SEPARATE FORM FOR APPLYING FOR SPOUSAL
17 RELIEF.—Not later than 180 days after the date of the
18 enactment of this Act, the Secretary of the Treasury shall
19 develop a separate form with instructions for use by tax-
20 payers in applying for relief under section 6015(a) of the
21 Internal Revenue Code of 1986, as added by this section.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 6013 is amended by striking sub-
24 section (e).

1 (2) Subparagraph (A) of section 6230(c)(5) is
2 amended by striking “section 6013(e)” and inserting
3 “section 6015”.

4 (d) CLERICAL AMENDMENT.—The table of sections
5 for subpart B of part II of subchapter A of chapter 61
6 is amended by inserting after the item relating to section
7 6014 the following new item:

 “Sec. 6015. Innocent spouse relief; petition to Tax Court.”.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to understatements for taxable
10 years beginning after the date of the enactment of this
11 Act.

12 **SEC. 322. SUSPENSION OF STATUTE OF LIMITATIONS ON**
13 **FILING REFUND CLAIMS DURING PERIODS**
14 **OF DISABILITY.**

15 (a) IN GENERAL.—Section 6511 (relating to limita-
16 tions on credit or refund) is amended by redesignating
17 subsection (h) as subsection (i) and by inserting after sub-
18 section (g) the following new subsection:

19 “(h) RUNNING OF PERIODS OF LIMITATION SUS-
20 PENDED WHILE TAXPAYER IS UNABLE TO MANAGE FI-
21 NANCIAL AFFAIRS DUE TO DISABILITY.—

22 “(1) IN GENERAL.—In the case of an individ-
23 ual, the running of the periods specified in sub-
24 sections (a), (b), and (c) shall be suspended during

1 any period of such individual's life that such individ-
2 ual is financially disabled.

3 “(2) FINANCIALLY DISABLED.—

4 “(A) IN GENERAL.—For purposes of para-
5 graph (1), an individual is financially disabled
6 if such individual is unable to manage his fi-
7 nancial affairs by reason of his medically deter-
8 minable physical or mental impairment which
9 can be expected to result in death or which has
10 lasted or can be expected to last for a continu-
11 ous period of not less than 12 months. An indi-
12 vidual shall not be considered to have such an
13 impairment unless proof of the existence thereof
14 is furnished in such form and manner as the
15 Secretary may require.

16 “(B) EXCEPTION WHERE INDIVIDUAL HAS
17 GUARDIAN, ETC.—An individual shall not be
18 treated as financially disabled during any pe-
19 riod that such individual's spouse or any other
20 person is authorized to act on behalf of such in-
21 dividual in financial matters.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to periods of disability before,
24 on, or after the date of the enactment of this Act but shall
25 not apply to any claim for credit or refund which (without

1 regard to such amendment) is barred by the operation of
2 any law or rule of law (including res judicata) as of Janu-
3 ary 1, 1998.

4 **Subtitle D—Provisions Relating to** 5 **Interest**

6 **SEC. 331. ELIMINATION OF INTEREST RATE DIFFERENTIAL** 7 **ON OVERLAPPING PERIODS OF INTEREST ON** 8 **INCOME TAX OVERPAYMENTS AND UNDER-** 9 **PAYMENTS.**

10 (a) IN GENERAL.—Section 6621 (relating to deter-
11 mination of rate of interest) is amended by adding at the
12 end the following new subsection:

13 “(d) ELIMINATION OF INTEREST ON OVERLAPPING
14 PERIODS OF INCOME TAX OVERPAYMENTS AND UNDER-
15 PAYMENTS.—To the extent that, for any period, interest
16 is payable under subchapter A and allowable under sub-
17 chapter B on equivalent underpayments and overpayments
18 by the same taxpayer of tax imposed by chapters 1 and
19 2, the net rate of interest under this section on such
20 amounts shall be zero for such period.”.

21 (b) CONFORMING AMENDMENT.—Subsection (f) of
22 section 6601 (relating to satisfaction by credits) is amend-
23 ed by adding at the end the following new sentence: “The
24 preceding sentence shall not apply to the extent that sec-
25 tion 6621(d) applies.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to interest for calendar quarters
3 beginning after the date of the enactment of this Act.

4 **SEC. 332. INCREASE IN OVERPAYMENT RATE PAYABLE TO**
5 **TAXPAYERS OTHER THAN CORPORATIONS.**

6 (a) IN GENERAL.—Subparagraph (B) of section
7 6621(a)(1) (defining overpayment rate) is amended to
8 read as follows:

9 “(B) 3 percentage points (2 percentage
10 points in the case of a corporation).”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to interest for calendar quarters
13 beginning after the date of the enactment of this Act.

14 **Subtitle E—Protections for Tax-**
15 **payers Subject to Audit or Col-**
16 **lection Activities**

17 **SEC. 341. PRIVILEGE OF CONFIDENTIALITY EXTENDED TO**
18 **TAXPAYER’S DEALINGS WITH NON-ATTOR-**
19 **NEYS AUTHORIZED TO PRACTICE BEFORE IN-**
20 **TERNAL REVENUE SERVICE.**

21 Section 7602 (relating to examination of books and
22 witnesses) is amended by adding at the end the following
23 new subsection:

24 “(d) PRIVILEGE OF CONFIDENTIALITY EXTENDED
25 TO TAXPAYER’S DEALINGS WITH NON-ATTORNEYS AU-

1 THORIZED TO PRACTICE BEFORE INTERNAL REVENUE
2 SERVICE.—

3 “(1) IN GENERAL.—In any noncriminal pro-
4 ceeding before the Internal Revenue Service, the tax-
5 payer shall be entitled to the same common law pro-
6 tections of confidentiality with respect to tax advice
7 furnished by any qualified individual (in a manner
8 consistent with State law for such individual’s pro-
9 fession) as the taxpayer would have if such individ-
10 ual were an attorney.

11 “(2) QUALIFIED INDIVIDUAL.—For purposes of
12 paragraph (1), the term ‘qualified individual’ means
13 any individual (other than an attorney) who is au-
14 thorized to practice before the Internal Revenue
15 Service.”.

16 **SEC. 342. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER**
17 **ASSISTANCE ORDERS.**

18 Section 7811(a) (relating to taxpayer assistance or-
19 ders) is amended—

20 (1) by striking “Upon application” and insert-
21 ing the following:

22 “(1) IN GENERAL.—Upon application”,

23 (2) by moving the text 2 ems to the right, and

24 (3) by adding at the end the following new
25 paragraphs:

1 “(2) ISSUANCE OF TAXPAYER ASSISTANCE OR-
2 DERS.—For purposes of determining whether to
3 issue a taxpayer assistance order, the Taxpayer Ad-
4 vocate shall consider the following factors, among
5 others:

6 “(A) Whether there is an immediate threat
7 of adverse action.

8 “(B) Whether there has been an unreason-
9 able delay in resolving taxpayer account prob-
10 lems.

11 “(C) Whether the taxpayer will have to pay
12 significant costs (including fees for professional
13 representation) if relief is not granted.

14 “(D) Whether the taxpayer will suffer ir-
15 reparable injury, or a long-term adverse impact,
16 if relief is not granted.

17 “(3) STANDARD WHERE ADMINISTRATIVE GUID-
18 ANCE NOT FOLLOWED.—In cases where any Internal
19 Revenue Service employee is not following applicable
20 published administrative guidance (including the In-
21 ternal Revenue Manual), the Taxpayer Advocate
22 shall construe the factors taken into account in de-
23 termining whether to issue a taxpayer assistance
24 order in the manner most favorable to the tax-
25 payer.”.

1 **SEC. 343. LIMITATION ON FINANCIAL STATUS AUDIT TECH-**
2 **NIQUES.**

3 Section 7602 is amended by adding at the end the
4 following new subsection:

5 “(e) **LIMITATION ON EXAMINATION ON UNREPORTED**
6 **INCOME.**—The Secretary shall not use financial status or
7 economic reality examination techniques to determine the
8 existence of unreported income of any taxpayer unless the
9 Secretary has a reasonable indication that there is a likeli-
10 hood of such unreported income.”.

11 **SEC. 344. LIMITATION ON AUTHORITY TO REQUIRE PRO-**
12 **DUCTION OF COMPUTER SOURCE CODE.**

13 (a) **IN GENERAL.**—Section 7602 is amended by add-
14 ing at the end the following new subsection:

15 “(f) **LIMITATION ON AUTHORITY TO REQUIRE PRO-**
16 **DUCTION OF COMPUTER SOURCE CODE.**—

17 “(1) **IN GENERAL.**—No summons may be is-
18 sued under this title, and the Secretary may not
19 begin any action under section 7604 to enforce any
20 summons, to produce or examine any tax-related
21 computer source code.

22 “(2) **EXCEPTION WHERE INFORMATION NOT**
23 **OTHERWISE AVAILABLE TO VERIFY CORRECTNESS**
24 **OF ITEM ON RETURN.**—Paragraph (1) shall not
25 apply to any portion of a tax-related computer
26 source code if—

1 “(A) the Secretary is unable to otherwise
2 reasonably ascertain the correctness of any item
3 on a return from—

4 “(i) the taxpayer’s books, papers,
5 records, or other data, or

6 “(ii) the computer software program
7 and the associated data which, when exe-
8 cuted, produces the output to prepare the
9 return for the period involved, and

10 “(B) the Secretary identifies with reason-
11 able specificity such portion as to be used to
12 verify the correctness of such item.

13 The Secretary shall be treated as meeting the re-
14 quirements of subparagraphs (A) and (B) after the
15 90th day after the Secretary makes a formal request
16 to the taxpayer and the owner or developer of the
17 computer software program for the material de-
18 scribed in subparagraph (A)(ii) if such material is
19 not provided before the close of such 90th day.

20 “(3) OTHER EXCEPTIONS.—Paragraph (1) shall
21 not apply to—

22 “(A) any inquiry into any offense con-
23 nected with the administration or enforcement
24 of the internal revenue laws, and

1 “(B) any tax-related computer source code
2 developed by (or primarily for the benefit of)
3 the taxpayer or a related person (within the
4 meaning of section 267 or 707(b)) for internal
5 use by the taxpayer or such person and not for
6 commercial distribution.

7 “(4) TAX-RELATED COMPUTER SOURCE
8 CODE.—For purposes of this subsection, the term
9 ‘tax-related computer source code’ means—

10 “(A) the computer source code for any
11 computer software program for accounting, tax
12 return preparation or compliance, or tax plan-
13 ning, or

14 “(B) design and development materials re-
15 lated to such a software program (including
16 program notes and memoranda).

17 “(5) RIGHT TO CONTEST SUMMONS.—The de-
18 termination of whether the requirements of subpara-
19 graphs (A) and (B) of paragraph (2) are met or
20 whether any exception under paragraph (3) applies
21 may be contested in any proceeding under section
22 7604.

23 “(6) PROTECTION OF TRADE SECRETS AND
24 OTHER CONFIDENTIAL INFORMATION.—In any court
25 proceeding to enforce a summons for any portion of

1 a tax-related computer source code, the court may
2 issue any order necessary to prevent the disclosure
3 of trade secrets or other confidential information
4 with respect to such source code, including providing
5 that any information be placed under seal to be
6 opened only as directed by the court.”.

7 (b) APPLICATION OF SPECIAL PROCEDURES FOR
8 THIRD-PARTY SUMMONSES.—Paragraph (3) of section
9 7609(a) (defining third-party recordkeeper) is amended by
10 striking “and” at the end of subparagraph (H), by strik-
11 ing a period at the end of subparagraph (I) and inserting
12 “, and”, and by adding at the end the following:

13 “(J) any owner or developer of a tax-relat-
14 ed computer source code (as defined in section
15 7602(f)(4)).

16 Subparagraph (J) shall apply only with respect to a
17 summons requiring the production of the source
18 code referred to in subparagraph (J) or the program
19 and data described in section 7602(f)(2)(A)(ii) to
20 which such source code relates.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to summonses issued more than
23 90 days after the date of the enactment of this Act.

1 **SEC. 345. PROCEDURES RELATING TO EXTENSIONS OF**
2 **STATUTE OF LIMITATIONS BY AGREEMENT.**

3 (a) IN GENERAL.—Paragraph (4) of section 6501(c)
4 (relating to the period for limitations on assessment and
5 collection) is amended—

6 (1) by striking “Where” and inserting the fol-
7 lowing:

8 “(A) IN GENERAL.—Where”,

9 (2) by moving the text 2 ems to the right, and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(B) NOTICE TO TAXPAYER OF RIGHT TO
13 REFUSE OR LIMIT EXTENSION.—The Secretary
14 shall notify the taxpayer of the taxpayer’s right
15 to refuse to extend the period of limitations, or
16 to limit such extension to particular issues, on
17 each occasion when the taxpayer is requested to
18 provide such consent.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to requests to extend the period
21 of limitations made after the date of the enactment of this
22 Act.

23 **SEC. 346. OFFERS-IN-COMPROMISE.**

24 (a) ALLOWANCES FOR BASIC LIVING EXPENSES.—
25 Section 7122 (relating to offers-in-compromise) is amend-
26 ed by adding at the end the following new subsection:

1 “(c) ALLOWANCES FOR BASIC LIVING EXPENSES.—
2 The Secretary shall develop and publish schedules of na-
3 tional and local allowances designed to provide that tax-
4 payers entering into a compromise have an adequate
5 means to provide for basic living expenses.”.

6 (b) PREPARATION OF STATEMENT RELATING TO OF-
7 FERS-IN-COMPROMISE.—The Secretary of the Treasury
8 shall prepare a statement which sets forth in simple, non-
9 technical terms the rights of a taxpayer and the obliga-
10 tions of the Internal Revenue Service relating to offers-
11 in-compromise. Such statement shall—

12 (1) advise taxpayers who have entered into a
13 compromise agreement of the advantages of promptly
14 notifying the Internal Revenue Service of any
15 change of address or marital status, and

16 (2) provide notice to taxpayers that in the case
17 of a compromise agreement terminated due to the
18 actions of 1 spouse or former spouse, the Internal
19 Revenue Service will, upon application, reinstate
20 such agreement with the spouse or former spouse
21 who remains in compliance with such agreement.

22 **SEC. 347. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES**
23 **FOR FILING TAX COURT PETITION.**

24 (a) IN GENERAL.—The Secretary of the Treasury or
25 the Secretary’s delegate shall include on each notice of de-

1 deficiency under section 6212 of the Internal Revenue Code
2 of 1986 the date determined by such Secretary (or dele-
3 gate) as the last day on which the taxpayer may file a
4 petition with the Tax Court.

5 (b) LATER FILING DEADLINES SPECIFIED ON NO-
6 TICE OF DEFICIENCY TO BE BINDING.—Subsection (a)
7 of section 6213 (relating to restrictions applicable to defi-
8 ciencies; petition to Tax Court) is amended by adding at
9 the end the following new sentence: “Any petition filed
10 with the Tax Court on or before the last date specified
11 for filing such petition by the Secretary in the notice of
12 deficiency shall be treated as timely filed.”.

13 (c) EFFECTIVE DATE.—Subsection (a) and the
14 amendment made by subsection (b) shall apply to notices
15 mailed after December 31, 1998.

16 **SEC. 348. REFUND OR CREDIT OF OVERPAYMENTS BEFORE**
17 **FINAL DETERMINATION.**

18 (a) TAX COURT PROCEEDINGS.—Subsection (a) of
19 section 6213 is amended—

20 (1) by striking “, including the Tax Court.”
21 and inserting “, including the Tax Court, and a re-
22 fund may be ordered by such court of any amount
23 collected within the period during which the Sec-
24 retary is prohibited from collecting by levy or

1 through a proceeding in court under the provisions
2 of this subsection.”, and

3 (2) by striking “to enjoin any action or pro-
4 ceeding” and inserting “to enjoin any action or pro-
5 ceeding or order any refund”.

6 (b) OTHER PROCEEDINGS.—Subsection (a) of section
7 6512 is amended by striking the period at the end of para-
8 graph (4) and inserting “, and”, and by inserting after
9 paragraph (4) the following new paragraphs:

10 “(5) As to any amount collected within the pe-
11 riod during which the Secretary is prohibited from
12 making the assessment or from collecting by levy or
13 through a proceeding in court under the provisions
14 of section 6213(a), and

15 “(6) As to overpayments the Secretary is au-
16 thorized to refund or credit pending appeal as pro-
17 vided in subsection (b).”.

18 (c) REFUND OR CREDIT PENDING APPEAL.—Para-
19 graph (1) of section 6512(b) is amended by adding at the
20 end the following new sentence: “If a notice of appeal in
21 respect of the decision of the Tax Court is filed under sec-
22 tion 7483, the Secretary is authorized to refund or credit
23 the overpayment determined by the Tax Court to the ex-
24 tent the overpayment is not contested on appeal.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **SEC. 349. THREAT OF AUDIT PROHIBITED TO COERCE TIP**
5 **REPORTING ALTERNATIVE COMMITMENT**
6 **AGREEMENTS.**

7 The Secretary of the Treasury or the Secretary's del-
8 egate shall instruct employees of the Internal Revenue
9 Service that they may not threaten to audit any taxpayer
10 in an attempt to coerce the taxpayer into entering into
11 a Tip Reporting Alternative Commitment Agreement.

12 **Subtitle F—Disclosures to**
13 **Taxpayers**

14 **SEC. 351. EXPLANATION OF JOINT AND SEVERAL LIABIL-**
15 **ITY.**

16 The Secretary of the Treasury or the Secretary's del-
17 egate shall, as soon as practicable, but not later than 180
18 days after the date of the enactment of this Act, establish
19 procedures to clearly alert married taxpayers of their joint
20 and several liabilities on all appropriate publications and
21 instructions.

1 **SEC. 352. EXPLANATION OF TAXPAYERS' RIGHTS IN INTER-**
2 **VIEWS WITH THE INTERNAL REVENUE SERV-**
3 **ICE.**

4 The Secretary of the Treasury or the Secretary's del-
5 egate shall, as soon as practicable, but not later than 180
6 days after the date of the enactment of this Act, revise
7 the statement required by section 6227 of the Omnibus
8 Taxpayer Bill of Rights (Internal Revenue Service Publi-
9 cation No. 1) to more clearly inform taxpayers of their
10 rights—

11 (1) to be represented at interviews with the In-
12 ternal Revenue Service by any person authorized to
13 practice before the Internal Revenue Service, and

14 (2) to suspend an interview pursuant to section
15 7521(b)(2) of the Internal Revenue Code of 1986.

16 **SEC. 353. DISCLOSURE OF CRITERIA FOR EXAMINATION SE-**
17 **LECTION.**

18 (a) IN GENERAL.—The Secretary of the Treasury or
19 the Secretary's delegate shall, as soon as practicable, but
20 not later than 180 days after the date of the enactment
21 of this Act, incorporate into the statement required by sec-
22 tion 6227 of the Omnibus Taxpayer Bill of Rights (Inter-
23 nal Revenue Service Publication No. 1) a statement which
24 sets forth in simple and nontechnical terms the criteria
25 and procedures for selecting taxpayers for examination.
26 Such statement shall not include any information the dis-

1 closure of which would be detrimental to law enforcement,
2 but shall specify the general procedures used by the Inter-
3 nal Revenue Service, including whether taxpayers are se-
4 lected for examination on the basis of information avail-
5 able in the media or on the basis of information provided
6 to the Internal Revenue Service by informants.

7 (b) TRANSMISSION TO COMMITTEES OF CON-
8 GRESS.—The Secretary shall transmit drafts of the state-
9 ment required under subsection (a) (or proposed revisions
10 to any such statement) to the Committee on Ways and
11 Means of the House of Representatives, the Committee on
12 Finance of the Senate, and the Joint Committee on Tax-
13 ation on the same day.

14 **SEC. 354. EXPLANATIONS OF APPEALS AND COLLECTION**
15 **PROCESS.**

16 The Secretary of the Treasury or the Secretary's del-
17 egate shall, as soon as practicable but not later than 180
18 days after the date of the enactment of this Act, include
19 with any 1st letter of proposed deficiency which allows the
20 taxpayer an opportunity for administrative review in the
21 Internal Revenue Service Office of Appeals an explanation
22 of the appeals process and the collection process with re-
23 spect to such proposed deficiency.

1 **Subtitle G—Low Income Taxpayer**
2 **Clinics**

3 **SEC. 361. LOW INCOME TAXPAYER CLINICS.**

4 (a) IN GENERAL.—Chapter 77 (relating to mis-
5 cellaneous provisions) is amended by adding at the end
6 the following new section:

7 **“SEC. 7525. LOW INCOME TAXPAYER CLINICS.**

8 “(a) IN GENERAL.—The Secretary may, subject to
9 the availability of appropriated funds, make grants to pro-
10 vide matching funds for the development, expansion, or
11 continuation of qualified low income taxpayer clinics.

12 “(b) DEFINITIONS.—For purposes of this section—

13 “(1) QUALIFIED LOW INCOME TAXPAYER CLIN-
14 IC.—

15 “(A) IN GENERAL.—The term ‘qualified
16 low income taxpayer clinic’ means a clinic
17 that—

18 “(i) does not charge more than a
19 nominal fee for its services (except for re-
20 imbursement of actual costs incurred), and

21 “(ii)(I) represents low income tax-
22 payers in controversies with the Internal
23 Revenue Service, or

24 “(II) operates programs to inform in-
25 dividuals for whom English is a second

1 language about their rights and respon-
2 sibilities under this title.

3 “(B) REPRESENTATION OF LOW INCOME
4 TAXPAYERS.—A clinic meets the requirements
5 of subparagraph (A)(ii)(I) if—

6 “(i) at least 90 percent of the tax-
7 payers represented by the clinic have in-
8 comes which do not exceed 250 percent of
9 the poverty level, as determined in accord-
10 ance with criteria established by the Direc-
11 tor of the Office of Management and
12 Budget, and

13 “(ii) the amount in controversy for
14 any taxable year generally does not exceed
15 the amount specified in section 7463.

16 “(2) CLINIC.—The term ‘clinic’ includes—

17 “(A) a clinical program at an accredited
18 law school in which students represent low in-
19 come taxpayers in controversies arising under
20 this title, and

21 “(B) an organization described in section
22 501(c) and exempt from tax under section
23 501(a) which satisfies the requirements of para-
24 graph (1) through representation of taxpayers

1 or referral of taxpayers to qualified representa-
2 tives.

3 “(3) QUALIFIED REPRESENTATIVE.—The term
4 ‘qualified representative’ means any individual
5 (whether or not an attorney) who is authorized to
6 practice before the Internal Revenue Service or the
7 applicable court.

8 “(c) SPECIAL RULES AND LIMITATIONS.—

9 “(1) AGGREGATE LIMITATION.—Unless other-
10 wise provided by specific appropriation, the Sec-
11 retary shall not allocate more than \$3,000,000 per
12 year (exclusive of costs of administering the pro-
13 gram) to grants under this section.

14 “(2) LIMITATION ON ANNUAL GRANTS TO A
15 CLINIC.—The aggregate amount of grants which
16 may be made under this section to a clinic for a year
17 shall not exceed \$100,000.

18 “(3) MULTI-YEAR GRANTS.—Upon application
19 of a qualified low income taxpayer clinic, the Sec-
20 retary is authorized to award a multi-year grant not
21 to exceed 3 years.

22 “(4) CRITERIA FOR AWARDS.—In determining
23 whether to make a grant under this section, the Sec-
24 retary shall consider—

1 “(A) the numbers of taxpayers who will be
2 served by the clinic, including the number of
3 taxpayers in the geographical area for whom
4 English is a second language,

5 “(B) the existence of other low income tax-
6 payer clinics serving the same population,

7 “(C) the quality of the program offered by
8 the low income taxpayer clinic, including the
9 qualifications of its administrators and qualified
10 representatives, and its record, if any, in pro-
11 viding service to low income taxpayers, and

12 “(D) alternative funding sources available
13 to the clinic, including amounts received from
14 other grants and contributions, and the endow-
15 ment and resources of the institution sponsor-
16 ing the clinic.

17 “(5) REQUIREMENT OF MATCHING FUNDS.—A
18 low income taxpayer clinic must provide matching
19 funds on a dollar for dollar basis for all grants pro-
20 vided under this section. Matching funds may in-
21 clude—

22 “(A) the salary (including fringe benefits)
23 of individuals performing services for the clinic,
24 and

1 “(B) the cost of equipment used in the
2 clinic.

3 Indirect expenses, including general overhead of the
4 institution sponsoring the clinic, shall not be counted
5 as matching funds.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for chapter 77 is amended by adding at the end the follow-
8 ing new section:

“Sec. 7525. Low income taxpayer clinics.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall take effect on the date of the enactment
11 of this Act.

12 **Subtitle H—Other Matters**

13 **SEC. 371. ACTIONS FOR REFUND WITH RESPECT TO CER-** 14 **TAIN ESTATES WHICH HAVE ELECTED THE** 15 **INSTALLMENT METHOD OF PAYMENT.**

16 (a) IN GENERAL.—Section 7422 is amended by re-
17 designating subsection (j) as subsection (k) and by insert-
18 ing after subsection (i) the following new subsection:

19 “(j) SPECIAL RULE FOR ACTIONS WITH RESPECT TO
20 ESTATES FOR WHICH AN ELECTION UNDER SECTION
21 6166 IS MADE.—

22 “(1) IN GENERAL.—The district courts of the
23 United States and the United States Court of Fed-
24 eral Claims shall have jurisdiction over any action
25 brought by the representative of an estate to which

1 this subsection applies to determine the correct
2 amount of the estate tax liability of such estate (or
3 for any refund with respect thereto) even if the full
4 amount of such liability has not been paid.

5 “(2) ESTATES TO WHICH SUBSECTION AP-
6 PLIES.—This subsection shall apply to any estate if,
7 as of the date the action is filed—

8 “(A) an election under section 6166 is in
9 effect with respect to such estate,

10 “(B) no portion of the installments payable
11 under such section have been accelerated, and

12 “(C) all installments the due date for
13 which is on or before the date the action is filed
14 have been paid.

15 “(3) PROHIBITION ON COLLECTION OF DIS-
16 ALLOWED LIABILITY.—If the court redetermines
17 under paragraph (1) the estate tax liability of an es-
18 tate, no part of such liability which is disallowed by
19 a decision of such court which has become final may
20 be collected by the Secretary, and amounts paid in
21 excess of the installments determined by the court as
22 currently due and payable shall be refunded.”.

23 (b) EXTENSION OF TIME TO FILE REFUND SUIT.—
24 Section 7479 (relating to declaratory judgments relating
25 to eligibility of estate with respect to installment payments

1 under section 6166) is amended by adding at the end the
2 following new subsection:

3 “(c) **EXTENSION OF TIME TO FILE REFUND SUIT.**—
4 The 2-year period in section 6532(a)(1) for filing suit for
5 refund after disallowance of a claim shall be suspended
6 during the 90-day period after the mailing of the notice
7 referred to in subsection (b)(3) and, if a pleading has been
8 filed with the Tax Court under this section, until the deci-
9 sion of the Tax Court has become final.”.

10 (c) **EFFECTIVE DATE.**—The amendments made by
11 this section shall apply to any claim for refund filed after
12 the date of the enactment of this Act.

13 **SEC. 372. CATALOGING COMPLAINTS.**

14 In collecting data for the report required under sec-
15 tion 1211 of Taxpayer Bill of Rights 2 (Public Law 104-
16 168), the Secretary of the Treasury or the Secretary’s del-
17 egate shall maintain records of taxpayer complaints of
18 misconduct by Internal Revenue Service employees on an
19 individual employee basis.

20 **SEC. 373. ARCHIVE OF RECORDS OF INTERNAL REVENUE**
21 **SERVICE.**

22 (a) **IN GENERAL.**—Subsection (l) of section 6103 (re-
23 lating to confidentiality and disclosure of returns and re-
24 turn information) is amended by adding at the end the
25 following new paragraph:

1 “(17) DISCLOSURE TO NATIONAL ARCHIVES
2 AND RECORDS ADMINISTRATION.—The Secretary
3 shall, upon written request from the Archivist of the
4 United States, disclose or authorize the disclosure of
5 returns and return information to officers and em-
6 ployees of the National Archives and Records Ad-
7 ministration for purposes of, and only to the extent
8 necessary in, the appraisal of records for destruction
9 or retention. No such officer or employee shall, ex-
10 cept to the extent authorized by subsections (f),
11 (i)(7), or (p), disclose any return or return informa-
12 tion disclosed under the preceding sentence to any
13 person other than to the Secretary, or to another of-
14 ficer or employee of the National Archives and
15 Records Administration whose official duties require
16 such disclosure for purposes of such appraisal.”.

17 (b) CONFORMING AMENDMENTS.—Section 6103(p) is
18 amended—

19 (1) in paragraph (3)(A), by striking “or (16)”
20 and inserting “(16), or (17)”,

21 (2) in paragraph (4), by striking “or (14)” and
22 inserting “, (14), or (17)” in the matter preceding
23 subparagraph (A), and

24 (3) in paragraph (4)(F)(ii), by striking “or
25 (15)” and inserting “, (15), or (17)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to requests made by the Archivist
3 of the United States after the date of the enactment of
4 this Act.

5 **SEC. 374. PAYMENT OF TAXES.**

6 The Secretary of the Treasury or the Secretary's del-
7 egate shall establish such rules, regulations, and proce-
8 dures as are necessary to allow payment of taxes by check
9 or money order made payable to the United States Treas-
10 ury.

11 **SEC. 375. CLARIFICATION OF AUTHORITY OF SECRETARY**
12 **RELATING TO THE MAKING OF ELECTIONS.**

13 Subsection (d) of section 7805 is amended by striking
14 “by regulations or forms”.

15 **SEC. 376. LIMITATION ON PENALTY ON INDIVIDUAL'S FAIL-**
16 **URE TO PAY FOR MONTHS DURING PERIOD**
17 **OF INSTALLMENT AGREEMENT.**

18 (a) IN GENERAL.—Section 6651 (relating to failure
19 to file tax return or to pay tax) is amended by adding
20 at the end the following new subsection:

21 “(h) LIMITATION ON PENALTY ON INDIVIDUAL'S
22 FAILURE TO PAY FOR MONTHS DURING PERIOD OF IN-
23 STALLMENT AGREEMENT.—No addition to the tax shall
24 be imposed under paragraph (2) or (3) of subsection (a)
25 with respect to the tax liability of an individual for any

1 month during which an installment agreement under sec-
2 tion 6159 is in effect for the payment of such tax to the
3 extent that imposing an addition to the tax under such
4 paragraph for such month would result in the aggregate
5 number of percentage points of such addition to the tax
6 exceeding 9.5.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply for purposes of determining addi-
9 tions to the tax for months beginning after the date of
10 the enactment of this Act.

11 **Subtitle I—Studies**

12 **SEC. 381. PENALTY ADMINISTRATION.**

13 The Joint Committee on Taxation shall conduct a
14 study—

15 (1) reviewing the administration and implemen-
16 tation by the Internal Revenue Service of the pen-
17 alty reform provisions of the Omnibus Budget Rec-
18 onciliation Act of 1989, and

19 (2) making any legislative and administrative
20 recommendations it deems appropriate to simplify
21 penalty administration and reduce taxpayer burden.

22 Such study shall be submitted to the Committee on Ways
23 and Means of the House of Representatives and the Com-
24 mittee on Finance of the Senate not later than 9 months
25 after the date of enactment of this Act.

1 **SEC. 382. CONFIDENTIALITY OF TAX RETURN INFORMA-**
2 **TION.**

3 The Joint Committee on Taxation shall conduct a
4 study of the scope and use of provisions regarding tax-
5 payer confidentiality, and shall report the findings of such
6 study, together with such recommendations as it deems
7 appropriate, to the Congress not later than one year after
8 the date of the enactment of this Act. Such study shall
9 examine the present protections for taxpayer privacy, the
10 need for third parties to use tax return information, and
11 the ability to achieve greater levels of voluntary compli-
12 ance by allowing the public to know who is legally required
13 to file tax returns, but does not file tax returns.

14 **TITLE IV—CONGRESSIONAL AC-**
15 **COUNTABILITY FOR THE IN-**
16 **TERNAL REVENUE SERVICE**
17 **Subtitle A—Oversight**

18 **SEC. 401. EXPANSION OF DUTIES OF THE JOINT COMMIT-**
19 **TEE ON TAXATION.**

20 (a) IN GENERAL.—Section 8021 (relating to the pow-
21 ers of the Joint Committee on Taxation) is amended by
22 adding at the end the following new subsections:

23 “(e) INVESTIGATIONS.—The Joint Committee shall
24 review all requests (other than requests by the chairman
25 or ranking member of a Committee or Subcommittee) for
26 investigations of the Internal Revenue Service by the Gen-

1 eral Accounting Office, and approve such requests when
2 appropriate, with a view towards eliminating overlapping
3 investigations, ensuring that the General Accounting Of-
4 fice has the capacity to handle the investigation, and en-
5 suring that investigations focus on areas of primary im-
6 portance to tax administration.

7 “(f) RELATING TO JOINT HEARINGS.—

8 “(1) IN GENERAL.—The Chief of Staff, and
9 such other staff as are appointed pursuant to section
10 8004, shall provide such assistance as is required for
11 joint hearings described in paragraph (2).

12 “(2) JOINT HEARINGS.—On or before April 1
13 of each calendar year after 1997, there shall be a
14 joint hearing of two members of the majority and
15 one member of the minority from each of the Com-
16 mittees on Finance, Appropriations, and Govern-
17 ment Affairs of the Senate, and the Committees on
18 Ways and Means, Appropriations, and Government
19 Reform and Oversight of the House of Representa-
20 tives, to review the strategic plans and budget for
21 the Internal Revenue Service. After the conclusion of
22 the annual filing season, there shall be a second an-
23 nual joint hearing to review the other matters out-
24 lined in section 8022(3)(C).”.

25 (b) EFFECTIVE DATES.—

1 (1) Subsection (e) of section 8021 of the Inter-
2 nal Revenue Code of 1986, as added by subsection
3 (a) of this section, shall apply to requests made after
4 the date of enactment of this Act.

5 (2) Subsection (f) of section 8021 of the Inter-
6 nal Revenue Code of 1986, as added by subsection
7 (a) of this section, shall take effect on the date of
8 the enactment of this Act.

9 **SEC. 402. COORDINATED OVERSIGHT REPORTS.**

10 (a) IN GENERAL.—Paragraph (3) of section 8022
11 (relating to the duties of the Joint Committee on Tax-
12 ation) is amended to read as follows:

13 “(3) REPORTS.—

14 “(A) To report, from time to time, to the
15 Committee on Finance and the Committee on
16 Ways and Means, and, in its discretion, to the
17 Senate or House of Representatives, or both,
18 the results of its investigations, together with
19 such recommendations as it may deem advis-
20 able.

21 “(B) To report, annually, to the Commit-
22 tee on Finance and the Committee on Ways
23 and Means on the overall state of the Federal
24 tax system, together with recommendations
25 with respect to possible simplification proposals

1 and other matters relating to the administra-
2 tion of the Federal tax system as it may deem
3 advisable.

4 “(C) To report, annually, to the Commit-
5 tees on Finance, Appropriations, and Govern-
6 ment Affairs of the Senate, and to the Commit-
7 tees on Ways and Means, Appropriations, and
8 Government Reform and Oversight of the
9 House of Representatives, with respect to—

10 “(i) strategic and business plans for
11 the Internal Revenue Service;

12 “(ii) progress of the Internal Revenue
13 Service in meeting its objectives;

14 “(iii) the budget for the Internal Rev-
15 enue Service and whether it supports its
16 objectives;

17 “(iv) progress of the Internal Revenue
18 Service in improving taxpayer service and
19 compliance;

20 “(v) progress of the Internal Revenue
21 Service on technology modernization; and

22 “(vi) the annual filing season.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall take effect on the date of the enactment
25 of this Act.

Subtitle B—Budget

2 SEC. 411. FUNDING FOR CENTURY DATE CHANGE.

3 It is the sense of Congress that the Internal Revenue
4 Service efforts to resolve the century date change comput-
5 ing problems should be funded fully to provide for certain
6 resolution of such problems.

7 SEC. 412. FINANCIAL MANAGEMENT ADVISORY GROUP.

8 The Commissioner shall convene a financial manage-
9 ment advisory group consisting of individuals with exper-
10 tise in governmental accounting and auditing from both
11 the private sector and the Government to advise the Com-
12 missioner on financial management issues, including—

13 (1) the continued partnership between the In-
14 ternal Revenue Service and the General Accounting
15 Office;

16 (2) the financial accounting aspects of the In-
17 ternal Revenue Service's system modernization;

18 (3) the necessity and utility of year-round au-
19 diting; and

20 (4) the Commissioner's plans for improving its
21 financial management system.

22 Subtitle C—Tax Law Complexity

23 SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.

24 It is the sense of Congress that the Internal Revenue
25 Service should provide the Congress with an independent

1 view of tax administration, and that during the legislative
2 process, the tax writing committees of the Congress should
3 hear from front-line technical experts at the Internal Rev-
4 enue Service with respect to the administrability of pend-
5 ing amendments to the Internal Revenue Code of 1986.

6 **SEC. 422. TAX COMPLEXITY ANALYSIS.**

7 (a) REQUIRING ANALYSIS TO ACCOMPANY CERTAIN
8 LEGISLATION.—

9 (1) IN GENERAL.—Chapter 92 (relating to pow-
10 ers and duties of the Joint Committee on Taxation)
11 is amended by adding at the end the following new
12 section:

13 **“SEC. 8024. TAX COMPLEXITY ANALYSIS.**

14 “(a) IN GENERAL.—If—

15 “(1) a bill or joint resolution is reported by the
16 Committee on Finance of the Senate, the Committee
17 on Ways and Means of the House of Representa-
18 tives, or any committee of conference, and

19 “(2) such legislation includes any provision
20 amending the Internal Revenue Code of 1986,

21 the report for such legislation shall contain a Tax Com-
22 plexity Analysis unless the committee involved causes to
23 have the Tax Complexity Analysis printed in the Congres-
24 sional Record prior to the consideration of the legislation

1 in the House of Representatives or the Senate (as the case
2 may be).

3 “(b) LEGISLATION SUBJECT TO POINT OF ORDER.—
4 It shall not be in order in the Senate to consider any bill
5 or joint resolution described in subsection (a) required to
6 be accompanied by a Tax Complexity Analysis that does
7 not contain a Tax Complexity Analysis.

8 “(c) RESPONSIBILITIES OF THE COMMISSIONER.—
9 The Commissioner shall provide the Joint Committee on
10 Taxation with such information as is necessary to prepare
11 Tax Complexity Analyses.

12 “(d) TAX COMPLEXITY ANALYSIS DEFINED.—For
13 purposes of this section, the term ‘Tax Complexity Analy-
14 sis’ means, with respect to a bill or joint resolution, a re-
15 port which is prepared by the Joint Committee on Tax-
16 ation and which identifies the provisions of the legislation
17 adding significant complexity or providing significant sim-
18 plification (as determined by the Joint Committee) and
19 includes the basis for such determination.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions for chapter 92 is amended by adding at the
22 end the following new item:

“Sec. 8024. Tax complexity analysis.”.

23 (b) LEGISLATION SUBJECT TO POINT OF ORDER IN
24 HOUSE OF REPRESENTATIVES.—

1 (1) LEGISLATION REPORTED BY COMMITTEE
2 ON WAYS AND MEANS.—Clause 2(1) of rule XI of the
3 Rules of the House of Representatives is amended
4 by adding at the end the following new subpara-
5 graph:

6 “(8) The report of the Committee on Ways and
7 Means on any bill or joint resolution containing any provi-
8 sion amending the Internal Revenue Code of 1986 shall
9 include a Tax Complexity Analysis prepared by the Joint
10 Committee on Taxation in accordance with section 8024
11 of the Internal Revenue Code of 1986 unless the Commit-
12 tee on Ways and Means causes to have such Analysis
13 printed in the Congressional Record prior to the consider-
14 ation of the bill or joint resolution.”.

15 (2) CONFERENCE REPORTS.—Rule XXVIII of
16 the Rules of the House of Representatives is amend-
17 ed by adding at the end the following new clause:

18 “7. It shall not be in order to consider the report
19 of a committee of conference which contains any provision
20 amending the Internal Revenue Code of 1986 unless—

21 “(a) the accompanying joint explanatory state-
22 ment contains a Tax Complexity Analysis prepared
23 by the Joint Committee on Taxation in accordance
24 with section 8024 of the Internal Revenue Code of
25 1986, or

1 “(b) such Analysis is printed in the Congres-
2 sional Record prior to the consideration of the re-
3 port.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to legislation considered on or after
6 January 1, 1998.

7 **TITLE V—CLARIFICATION OF DE-**
8 **DUCTION FOR DEFERRED**
9 **COMPENSATION**

10 **SEC. 501. CLARIFICATION OF DEDUCTION FOR DEFERRED**
11 **COMPENSATION.**

12 (a) IN GENERAL.—Subsection (a) of section 404 is
13 amended by adding at the end the following new para-
14 graph:

15 “(11) DETERMINATIONS RELATING TO DE-
16 FERRED COMPENSATION.—

17 “(A) IN GENERAL.—For purposes of deter-
18 mining under this section—

19 “(i) whether compensation of an em-
20 ployee is deferred compensation, and

21 “(ii) when deferred compensation is
22 paid,

23 no amount shall be treated as received by the
24 employee, or paid, until it is actually received
25 by the employee.

1 “(B) EXCEPTION.—Subparagraph (A)
2 shall not apply to severance pay.”.

3 (b) SICK LEAVE PAY TREATED LIKE VACATION
4 PAY.—Paragraph (5) of section 404(a) is amended by in-
5 serting “or sick leave pay” after “vacation pay”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply to taxable years ending after
9 October 8, 1997.

10 (2) CHANGE IN METHOD OF ACCOUNTING.—In
11 the case of any taxpayer required by this section to
12 change its method of accounting for its first taxable
13 year ending after October 8, 1997—

14 (A) such change shall be treated as initi-
15 ated by the taxpayer,

16 (B) such change shall be treated as made
17 with the consent of the Secretary of the Treas-
18 ury, and

19 (C) the net amount of the adjustments re-
20 quired to be taken into account by the taxpayer
21 under section 481 of the Internal Revenue Code
22 of 1986 shall be taken into account in such first
23 taxable year.

1 **TITLE VI—TAX TECHNICAL**
2 **CORRECTIONS ACT OF 1997**

3 **SEC. 601. SHORT TITLE.**

4 This title may be cited as the “Tax Technical Correc-
5 tions Act of 1997”.

6 **SEC. 602. DEFINITIONS.**

7 For purposes of this title—

8 (1) 1986 CODE.—The term “1986 Code”
9 means the Internal Revenue Code of 1986.

10 (2) 1997 ACT.—The term “1997 Act” means
11 the Taxpayer Relief Act of 1997.

12 **SEC. 603. AMENDMENTS RELATED TO TITLE I OF 1997 ACT.**

13 (a) AMENDMENTS RELATED TO SECTION 101(a) OF
14 1997 ACT.—

15 (1) Subsection (d) of section 24 of the 1986
16 Code is amended—

17 (A) by striking paragraphs (3) and (4),

18 (B) by redesignating paragraph (5) as
19 paragraph (3), and

20 (C) by striking paragraphs (1) and (2) and
21 inserting the following new paragraphs:

22 “(1) IN GENERAL.—In the case of a taxpayer
23 with 3 or more qualifying children for any taxable
24 year, the aggregate credits allowed under subpart C
25 shall be increased by the lesser of—

1 “(A) the credit which would be allowed
2 under this section without regard to this sub-
3 section and the limitation under section 26(a),
4 or

5 “(B) the amount by which the aggregate
6 amount of credits allowed by this subpart (with-
7 out regard to this subsection) would increase if
8 the limitation imposed by section 26(a) were in-
9 creased by the excess (if any) of—

10 “(i) the taxpayer’s social security
11 taxes for the taxable year, over

12 “(ii) the credit allowed under section
13 32 (determined without regard to sub-
14 section (n)) for the taxable year.

15 The amount of the credit allowed under this
16 subsection shall not be treated as a credit al-
17 lowed under this subpart and shall reduce the
18 amount of credit otherwise allowable under sub-
19 section (a) without regard to section 26(a).

20 “(2) REDUCTION OF CREDIT TO TAXPAYER
21 SUBJECT TO ALTERNATIVE MINIMUM TAX.—The
22 credit determined under this subsection for the tax-
23 able year shall be reduced by the excess (if any) of—

24 “(A) the amount of tax imposed by section
25 55 (relating to alternative minimum tax) with

1 respect to such taxpayer for such taxable year,
2 over

3 “(B) the amount of the reduction under
4 section 32(h) with respect to such taxpayer for
5 such taxable year.”.

6 (2) Paragraph (3) of section 24(d) of the 1986
7 Code (as redesignated by paragraph (1)) is amended
8 by striking “paragraph (3)” and inserting “para-
9 graph (1)”.

10 (b) AMENDMENTS RELATED TO SECTION 101(b) OF
11 1997 ACT.—

12 (1) The subsection (m) of section 32 of the
13 1986 Code added by section 101(b) of the 1997 Act
14 is amended to read as follows:

15 “(n) SUPPLEMENTAL CHILD CREDIT.—

16 “(1) IN GENERAL.—In the case of a taxpayer
17 with respect to whom a credit is allowed under sec-
18 tion 24 for the taxable year, the credit otherwise al-
19 lowable under this section shall be increased by the
20 lesser of—

21 “(A) the credit which would be allowed
22 under section 24 without regard to this sub-
23 section and the limitation under section 26(a),
24 or

1 “(B) the amount by which the aggregate
2 amount of credits allowed by subpart A (with-
3 out regard to this subsection) would be reduced
4 if the limitation imposed by section 26(a) were
5 reduced by the excess (if any) of—

6 “(i) the credit allowed by this section
7 (without regard to this subsection) for the
8 taxable year, over

9 “(ii) the taxpayer’s social security
10 taxes (as defined in section 24(d)) for the
11 taxable year.

12 The credit determined under this subsection shall be
13 allowed without regard to any other provision of this
14 section, including subsection (d).

15 “(2) COORDINATION WITH OTHER CREDITS.—

16 “(A) IN GENERAL.—The amount of the
17 credit under this subsection shall reduce the
18 amount of the credit otherwise allowable under
19 section 24, but the amount of the credit under
20 this subsection (and such reduction) shall not
21 otherwise be taken into account in determining
22 the amount of any other credit allowable under
23 this part.

24 “(B) TREATMENT OF CREDIT UNDER SEC-
25 TION 24(d).—For purposes of this subsection,

1 the credit determined under section 24(d) shall
2 be treated as not allowed under section 24.”.

3 **SEC. 604. AMENDMENTS RELATED TO TITLE II OF 1997 ACT.**

4 (a) AMENDMENTS RELATED TO SECTION 201 OF
5 1997 ACT.—

6 (1) The item relating to section 25A in the
7 table of sections for subpart A of part IV of sub-
8 chapter A of chapter 1 of the 1986 Code is amended
9 to read as follows:

“Sec. 25A. Hope and Lifetime Learning credits.”.

10 (2) Subsection (a) of section 6050S of the 1986
11 Code is amended to read as follows:

12 “(a) IN GENERAL.—Any person—

13 “(1) which is an eligible educational institu-
14 tion—

15 “(A) which receives payments for qualified
16 tuition and related expenses with respect to any
17 individual for any calendar year, or

18 “(B) which makes reimbursements or re-
19 funds (or similar amounts) to any individual of
20 qualified tuition and related expenses,

21 “(2) which is engaged in a trade or business of
22 making payments to any individual under an insur-
23 ance arrangement as reimbursements or refunds (or
24 similar amounts) of qualified tuition and related ex-
25 penses, or

1 “(3) except as provided in regulations, any per-
2 son which is engaged in a trade or business and, in
3 the course of which, receives from any individual in-
4 terest aggregating \$600 or more for any calendar
5 year on 1 or more qualified education loans,
6 shall make the return described in subsection (b) with re-
7 spect to the individual at such time as the Secretary may
8 by regulations prescribe.”.

9 (3) Subparagraph (A) of section 201(c)(2) of
10 the 1997 Act is amended to read as follows:

11 “(A) Subparagraph (B) of section
12 6724(d)(1) (relating to definitions) is amended
13 by redesignating clauses (x) through (xv) as
14 clauses (xi) through (xvi), respectively, and by
15 inserting after clause (ix) the following new
16 clause:

17 ““(x) section 6050S (relating to re-
18 turns relating to payments for qualified
19 tuition and related expenses),’”.

20 (b) AMENDMENTS RELATED TO SECTION 211 OF
21 1997 ACT.—

22 (1) Paragraph (3) of section 135(c) of the 1986
23 Code is amended to read as follows:

1 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—
2 The term ‘eligible educational institution’ has the
3 meaning given such term by section 529(e)(5).”.

4 (2) Subparagraph (A) of section 529(c)(3) of
5 the 1986 Code is amended by striking “section
6 72(b)” and inserting “section 72”.

7 (c) AMENDMENTS RELATED TO SECTION 213 OF
8 1997 ACT.—

9 (1)(A) Section 530(b)(1)(E) of the 1986 Code
10 (defining education individual retirement account) is
11 amended to read as follows:

12 “(E) Any balance to the credit of the des-
13 ignated beneficiary on the date on which the
14 beneficiary attains age 30 shall be distributed
15 within 30 days after such date to the bene-
16 ficiary or, if the beneficiary dies before attain-
17 ing age 30, shall be distributed within 30 days
18 after the date of death to the estate of such
19 beneficiary.”.

20 (B) Subsection (d) of section 530 of the 1986
21 Code is amended by adding at the end the following
22 new paragraph:

23 “(8) DEEMED DISTRIBUTION ON REQUIRED
24 DISTRIBUTION DATE.—In any case in which a dis-
25 tribution is required under subsection (b)(1)(E), any

1 balance to the credit of a designated beneficiary as
2 of the close of the 30-day period referred to in such
3 subsection for making such distribution shall be
4 deemed distributed at the close of such period.”.

5 (2)(A) Paragraph (1) of section 530(d) of the
6 1986 Code is amended by striking “section 72(b)”
7 and inserting “section 72”.

8 (B) Subsection (e) of section 72 of the 1986
9 Code is amended by inserting after paragraph (8)
10 the following new paragraph:

11 “(9) EXTENSION OF PARAGRAPH (2)(B) TO
12 QUALIFIED STATE TUITION PROGRAMS AND EDU-
13 CATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—
14 Notwithstanding any other provision of this sub-
15 section, paragraph (2)(B) shall apply to amounts re-
16 ceived under a qualified State tuition program (as
17 defined in section 529(b)) or under an education in-
18 dividual retirement account (as defined in section
19 530(b)). The rule of paragraph (8)(B) shall apply
20 for purposes of this paragraph.”.

21 (3) So much of section 530(d)(4)(C) of the
22 1986 Code as precedes clause (ii) thereof is amended
23 to read as follows:

24 “(C) CONTRIBUTIONS RETURNED BEFORE
25 DUE DATE OF RETURN.—Subparagraph (A)

1 shall not apply to the distribution of any con-
2 tribution made during a taxable year on behalf
3 of the designated beneficiary if—

4 “(i) such distribution is made on or
5 before the day prescribed by law (including
6 extensions of time) for filing the bene-
7 ficiary’s return of tax for the taxable year
8 or, if the beneficiary is not required to file
9 such a return, the 15th day of the 4th
10 month of the taxable year following the
11 taxable year, and”.

12 (4) Subparagraph (C) of section 135(c)(2) of
13 the 1986 Code is amended—

14 (A) by inserting “AND EDUCATION INDI-
15 VIDUAL RETIREMENT ACCOUNTS” in the head-
16 ing after “PROGRAM”, and

17 (B) by striking “section 529(c)(3)(A)” and
18 inserting “section 72”.

19 (5) Subparagraph (A) of section 4973(e)(1) of
20 the 1986 Code is amended by inserting before the
21 comma “(or, if less, the sum of the maximum
22 amounts permitted to be contributed under section
23 530(c) by the contributors to such accounts for such
24 year)”.

1 (d) AMENDMENT RELATED TO SECTION 224 OF
2 1997 ACT.—Section 170(e)(6)(F) of the 1986 Code (relat-
3 ing to termination) is amended by striking “1999” and
4 inserting “2000”.

5 (e) AMENDMENTS RELATED TO SECTION 225 OF
6 1997 ACT.—

7 (1) The last sentence of section 108(f)(2) of the
8 1986 Code is amended to read as follows:

9 “The term ‘student loan’ includes any loan made by
10 an educational organization described in section
11 170(b)(1)(A)(ii) or by an organization exempt from
12 tax under section 501(a) to refinance a loan to an
13 individual to assist the individual in attending any
14 such educational organization but only if the refi-
15 nancing loan is pursuant to a program of the refi-
16 nancing organization which is designed as described
17 in subparagraph (D)(ii).”.

18 (2) Section 108(f)(3) of the 1986 Code is
19 amended by striking “(or by an organization de-
20 scribed in paragraph (2)(E) from funds provided by
21 an organization described in paragraph (2)(D))”.

22 (f) AMENDMENTS RELATED TO SECTION 226 OF
23 1997 ACT.—

1 (1) Section 226(a) of the 1997 Act is amended
2 by striking “section 1397E” and inserting “section
3 1397D”.

4 (2) Section 1397E(d)(4)(B) of the 1986 Code
5 is amended by striking “local education agency as
6 defined” and inserting “local educational agency as
7 defined”.

8 **SEC. 605. AMENDMENTS RELATED TO TITLE III OF 1997 ACT.**

9 (a) AMENDMENTS RELATED TO SECTION 301 OF
10 1997 ACT.—Section 219(g) of the 1986 Code is amend-
11 ed—

12 (1) by inserting “or the individual’s spouse”
13 after “individual” in paragraph (1), and

14 (2) by striking paragraph (7) and inserting:

15 “(7) SPECIAL RULE FOR SPOUSES WHO ARE
16 NOT ACTIVE PARTICIPANTS.—If this subsection ap-
17 plies to an individual for any taxable year solely be-
18 cause their spouse is an active participant, then, in
19 applying this subsection to the individual (but not
20 their spouse)—

21 “(A) the applicable dollar amount under
22 paragraph (3)(B)(i) shall be \$150,000, and

23 “(B) the amount applicable under para-
24 graph (2)(A)(ii) shall be \$10,000.”.

1 (b) AMENDMENTS RELATED TO SECTION 302 OF
2 1997 ACT.—

3 (1) Section 408A(c)(3)(A) of the 1986 Code is
4 amended by striking “shall be reduced” and insert-
5 ing “shall not exceed an amount equal to the
6 amount determined under paragraph (2)(A) for such
7 taxable year, reduced”.

8 (2) Section 408A(c)(3) of the 1986 Code (relat-
9 ing to limits based on modified adjusted gross in-
10 come) is amended—

11 (A) by inserting “or a married individual
12 filing a separate return” after “joint return” in
13 subparagraph (A)(ii), and

14 (B) by striking “and the deduction under
15 section 219 shall be taken into account” in sub-
16 paragraph (C)(i).

17 (3) Section 408A(d)(2) of the 1986 Code (de-
18 fining qualified distribution) is amended by striking
19 subparagraph (B) and inserting the following:

20 “(B) DISTRIBUTIONS WITHIN NONEXCLU-
21 SION PERIOD.—A payment or distribution from
22 a Roth IRA shall not be treated as a qualified
23 distribution under subparagraph (A) if such
24 payment or distribution is made before the ex-
25 clusion date for the Roth IRA.

1 “(C) EXCLUSION DATE.—For purposes of
2 this section, the exclusion date for any Roth
3 IRA is the first day of the taxable year imme-
4 diately following the 5-taxable year period be-
5 ginning with—

6 “(i) the first taxable year for which a
7 contribution to any Roth IRA maintained
8 for the benefit of the individual was made,
9 or

10 “(ii) in the case of a Roth IRA to
11 which 1 or more qualified rollover con-
12 tributions were made—

13 “(I) from an individual retire-
14 ment plan other than a Roth IRA, or

15 “(II) from another Roth IRA to
16 the extent such contributions are
17 properly allocable to contributions de-
18 scribed in subclause (I),

19 the most recent taxable year for which any
20 such qualified rollover contribution was
21 made.”.

22 (4) Section 408A(d)(3) of the 1986 Code (relat-
23 ing to rollovers from IRAs other than Roth IRAs)
24 is amended by adding at the end the following:

1 “(F) SPECIAL RULE FOR APPLYING SEC-
2 TION 72.—

3 “(i) IN GENERAL.—If—

4 “(I) any distribution from a Roth
5 IRA is made before the exclusion
6 date, and

7 “(II) any portion of such dis-
8 tribution is properly allocable to a
9 qualified rollover contribution de-
10 scribed in paragraph (2)(C)(ii),

11 then section 72(t) shall be applied as if
12 such portion were includible in gross in-
13 come.

14 “(ii) LIMITATION.—Clause (i) shall
15 apply only to the extent of the amount in-
16 cludible in gross income under subpara-
17 graph (A)(i) by reason of the qualified roll-
18 over contribution.

19 “(G) SPECIAL RULES FOR CONTRIBUTIONS
20 TO WHICH 4-YEAR AVERAGING APPLIES.—In the
21 case of a qualified rollover contribution to a
22 Roth IRA of a distribution to which subpara-
23 graph (A)(iii) applied, the following rules shall
24 apply:

25 “(i) DEATH OF DISTRIBUTEE.—

1 “(I) IN GENERAL.—If the indi-
2 vidual required to include amounts in
3 gross income under such subpara-
4 graph dies before all of such amounts
5 are included, all remaining amounts
6 shall be included in gross income for
7 the taxable year which includes the
8 date of death.

9 “(II) SPECIAL RULE FOR SURVIV-
10 ING SPOUSE.—If the spouse of the in-
11 dividual described in subclause (I) ac-
12 quires the Roth IRA to which such
13 qualified rollover contribution is prop-
14 erly allocable, the spouse may elect to
15 include the remaining amounts de-
16 scribed in subclause (I) in the
17 spouse’s gross income in the taxable
18 years of the spouse ending with or
19 within the taxable years of such indi-
20 vidual in which such amounts would
21 otherwise have been includible.

22 “(ii) ADDITIONAL TAX FOR EARLY
23 DISTRIBUTION.—

24 “(I) IN GENERAL.—If any dis-
25 tribution from a Roth IRA is made

1 before the exclusion date, and any
2 portion of such distribution is prop-
3 erly allocable to such qualified rollover
4 contribution, the distributee's tax
5 under this chapter for the taxable
6 year in which the amount is received
7 shall be increased by 10 percent of the
8 amount of such portion not in excess
9 of the amount includible in gross in-
10 come under subparagraph (A)(i) by
11 reason of such qualified rollover con-
12 tribution.

13 “(II) TREATMENT OF TAX.—For
14 purposes of this title, any tax imposed
15 by subclause (I) shall be treated as a
16 tax imposed by section 72(t) and shall
17 be in addition to any other tax im-
18 posed by such section.”.

19 (5)(A) Section 408A(d)(4) of the 1986 Code is
20 amended to read as follows:

21 “(4) AGGREGATION AND ORDERING RULES.—

22 “(A) AGGREGATION RULES.—Section
23 408(d)(2) shall be applied separately with re-
24 spect to—

1 “(i) Roth IRAs and other individual
2 retirement plans,

3 “(ii) Roth IRAs described in para-
4 graph (2)(C)(ii) and Roth IRAs not so de-
5 scribed, and

6 “(iii) Roth IRAs described in para-
7 graph (2)(C)(ii) with different exclusion
8 dates.

9 “(B) ORDERING RULES.—For purposes of
10 applying section 72 to any distribution from a
11 Roth IRA which is not a qualified distribution,
12 such distribution shall be treated as made—

13 “(i) from contributions to the extent
14 that the amount of such distribution, when
15 added to all previous distributions from the
16 Roth IRA, does not exceed the aggregate
17 contributions to the Roth IRA, and

18 “(ii) from such contributions in the
19 following order:

20 “(I) Qualified rollover contribu-
21 tions to the extent includible in gross
22 income in the manner described in
23 paragraph (3)(A)(iii).

24 “(II) Qualified rollover contribu-
25 tions not described in subclause (I) to

1 the extent includible in gross income
2 under paragraph (3)(A).

3 “(III) Contributions not de-
4 scribed in subclause (I) or (II).

5 Such rules shall also apply in determining the
6 character of qualified rollover contributions
7 from one Roth IRA to another Roth IRA.”.

8 (B) Section 408A(d)(1) of the 1986 Code is
9 amended to read as follows:

10 “(1) EXCLUSION.—Any qualified distribution
11 from a Roth IRA shall not be includible in gross in-
12 come.”.

13 (6)(A) Section 408A(d) of the 1986 Code (re-
14 lating to distribution rules) is amended by adding at
15 the end the following:

16 “(6) TAXPAYER MAY MAKE ADJUSTMENTS BE-
17 FORE DUE DATE.—

18 “(A) IN GENERAL.—Except as provided by
19 the Secretary, if, on or before the due date for
20 any taxable year, a taxpayer transfers in a
21 trustee-to-trustee transfer any contribution to
22 an individual retirement plan made during such
23 taxable year from such plan to any other indi-
24 vidual retirement plan, then, for purposes of
25 this chapter, such contribution shall be treated

1 as having been made to the transferee plan
2 (and not the transferor plan).

3 “(B) SPECIAL RULES.—

4 “(i) TRANSFER OF EARNINGS.—Sub-
5 paragraph (A) shall not apply to the trans-
6 fer of any contribution unless such transfer
7 is accompanied by any net income allocable
8 to such contribution.

9 “(ii) NO DEDUCTION.—Subparagraph
10 (A) shall apply to the transfer of any con-
11 tribution only to the extent no deduction
12 was allowed with respect to the contribu-
13 tion to the transferor plan.

14 “(C) DUE DATE.—For purposes of this
15 paragraph, the due date for any taxable year is
16 the last date for filing the return of tax for
17 such taxable year (including extensions).”.

18 (B) Section 408A(d)(3) of the 1986 Code, as
19 amended by this subsection, is amended by striking
20 subparagraph (D) and by redesignating subpara-
21 graphs (E), (F), and (G) as subparagraphs (D), (E),
22 and (F), respectively.

23 (7) Section 302(b) of the 1997 Act is amended
24 by striking “Section 4973(b)” and inserting “Sec-
25 tion 4973”.

1 (8) Section 408A of the 1986 Code is amended
2 by adding at the end the following new subsection:

3 “(f) INDIVIDUAL RETIREMENT PLAN.—For purposes
4 of this section, except as provided by the Secretary, the
5 term ‘individual retirement plan’ shall not include a sim-
6 plified employee pension or a simple retirement account.”.

7 (c) AMENDMENTS RELATED TO SECTION 303 OF
8 1997 ACT.—

9 (1) Section 72(t)(8)(E) of the 1986 Code is
10 amended—

11 (A) by striking “120 days” and inserting
12 “120th day”, and

13 (B) by striking “60 days” and inserting
14 “60th day”.

15 (2)(A) Section 402(c) of the 1986 Code is
16 amended by adding at the end the following:

17 “(11) DENIAL OF ROLLOVER TREATMENT FOR
18 TRANSFERS OF HARDSHIP DISTRIBUTIONS TO INDI-
19 VIDUAL RETIREMENT PLANS.—This subsection shall
20 not apply to the transfer of any hardship distribu-
21 tion described in section 401(k)(2)(B)(i)(IV) from a
22 qualified cash or deferred arrangement to an eligible
23 retirement plan described in clause (i) or (ii) of
24 paragraph (8)(B).”.

1 (B) The amendment made by this paragraph
2 shall apply to distributions made after December 31,
3 1997.

4 (d) AMENDMENTS RELATED TO SECTION 311 OF
5 1997 ACT.—

6 (1) Subsection (h) of section 1 of the 1986
7 Code (relating to maximum capital gains rate) is
8 amended to read as follows:

9 “(h) MAXIMUM CAPITAL GAINS RATE.—

10 “(1) IN GENERAL.—If a taxpayer has a net
11 capital gain for any taxable year, the tax imposed by
12 this section for such taxable year shall not exceed
13 the sum of—

14 “(A) a tax computed at the rates and in
15 the same manner as if this subsection had not
16 been enacted on the greater of—

17 “(i) taxable income reduced by the net
18 capital gain, or

19 “(ii) the lesser of—

20 “(I) the amount of taxable in-
21 come taxed at a rate below 28 per-
22 cent, or

23 “(II) taxable income reduced by
24 the adjusted net capital gain,

1 “(B) 10 percent of so much of the ad-
2 justed net capital gain (or, if less, taxable in-
3 come) as does not exceed the excess (if any)
4 of—

5 “(i) the amount of taxable income
6 which would (without regard to this para-
7 graph) be taxed at a rate below 28 per-
8 cent, over

9 “(ii) the taxable income reduced by
10 the adjusted net capital gain,

11 “(C) 20 percent of the adjusted net capital
12 gain (or, if less, taxable income) in excess of the
13 amount on which a tax is determined under
14 subparagraph (B),

15 “(D) 25 percent of the excess (if any) of—

16 “(i) the unrecaptured section 1250
17 gain (or, if less, the net capital gain), over

18 “(ii) the excess (if any) of—

19 “(I) the sum of the amount on
20 which tax is determined under sub-
21 paragraph (A) plus the net capital
22 gain, over

23 “(II) taxable income, and

24 “(E) 28 percent of the amount of taxable
25 income in excess of the sum of the amounts on

1 which tax is determined under the preceding
2 subparagraphs of this paragraph.

3 “(2) REDUCED CAPITAL GAIN RATES FOR
4 QUALIFIED 5-YEAR GAIN.—

5 “(A) REDUCTION IN 10-PERCENT RATE.—

6 In the case of any taxable year beginning after
7 December 31, 2000, the rate under paragraph
8 (1)(B) shall be 8 percent with respect to so
9 much of the amount to which the 10-percent
10 rate would otherwise apply as does not exceed
11 qualified 5-year gain, and 10 percent with re-
12 spect to the remainder of such amount.

13 “(B) REDUCTION IN 20-PERCENT RATE.—

14 The rate under paragraph (1)(C) shall be 18
15 percent with respect to so much of the amount
16 to which the 20-percent rate would otherwise
17 apply as does not exceed the lesser of—

18 “(i) the excess of qualified 5-year gain
19 over the amount of such gain taken into
20 account under subparagraph (A) of this
21 paragraph, or

22 “(ii) the amount of qualified 5-year
23 gain (determined by taking into account
24 only property the holding period for which
25 begins after December 31, 2000),

1 and 20 percent with respect to the remainder of
2 such amount. For purposes of determining
3 under the preceding sentence whether the hold-
4 ing period of property begins after December
5 31, 2000, the holding period of property ac-
6 quired pursuant to the exercise of an option (or
7 other right or obligation to acquire property)
8 shall include the period such option (or other
9 right or obligation) was held.

10 “(3) NET CAPITAL GAIN TAKEN INTO ACCOUNT
11 AS INVESTMENT INCOME.—For purposes of this sub-
12 section, the net capital gain for any taxable year
13 shall be reduced (but not below zero) by the amount
14 which the taxpayer takes into account as investment
15 income under section 163(d)(4)(B)(iii).

16 “(4) ADJUSTED NET CAPITAL GAIN.—For pur-
17 poses of this subsection, the term ‘adjusted net cap-
18 ital gain’ means net capital gain reduced (but not
19 below zero) by the sum of—

20 “(A) unrecaptured section 1250 gain, and

21 “(B) 28 percent rate gain.

22 “(5) 28 PERCENT RATE GAIN.—For purposes of
23 this subsection—

24 “(A) IN GENERAL.—The term ‘28 percent
25 rate gain’ means the excess (if any) of—

1 “(i) the sum of—

2 “(I) the aggregate long-term cap-
3 ital gain from property held for more
4 than 1 year but not more than 18
5 months,

6 “(II) collectibles gain, and

7 “(III) section 1202 gain, over

8 “(ii) the sum of—

9 “(I) the aggregate long-term cap-
10 ital loss (not described in subclause
11 (IV)) from property referred to in
12 clause (i)(I),

13 “(II) collectibles loss,

14 “(III) the net short-term capital
15 loss, and

16 “(IV) the amount of long-term
17 capital loss carried under section
18 1212(b)(1)(B) to the taxable year.

19 “(B) SPECIAL RULES.—

20 “(i) SHORT SALES AND OPTIONS.—

21 Rules similar to the rules of subsections
22 (b) and (d) of section 1233 shall apply to
23 substantially identical property, and sec-
24 tion 1092(f) with respect to stock, held for

1 more than 1 year but not more than 18
2 months.

3 “(ii) SECTION 1256 CONTRACTS.—
4 Amounts treated as long-term capital gain
5 or loss under section 1256(a)(3) shall be
6 treated as attributable to property held for
7 more than 18 months.

8 “(6) COLLECTIBLES GAIN AND LOSS.—For pur-
9 poses of this subsection—

10 “(A) IN GENERAL.—The terms ‘collectibles
11 gain’ and ‘collectibles loss’ mean gain or loss
12 (respectively) from the sale or exchange of a
13 collectible (as defined in section 408(m) without
14 regard to paragraph (3) thereof) which is a
15 capital asset held for more than 18 months but
16 only to the extent such gain is taken into ac-
17 count in computing gross income and such loss
18 is taken into account in computing taxable in-
19 come.

20 “(B) PARTNERSHIPS, ETC.—For purposes
21 of subparagraph (A), any gain from the sale of
22 an interest in a partnership, S corporation, or
23 trust which is attributable to unrealized appre-
24 ciation in the value of collectibles shall be treat-
25 ed as gain from the sale or exchange of a col-

1 lectible. Rules similar to the rules of section
2 751 shall apply for purposes of the preceding
3 sentence.

4 “(7) UNRECAPTURED SECTION 1250 GAIN.—For
5 purposes of this subsection—

6 “(A) IN GENERAL.—The term
7 ‘unrecaptured section 1250 gain’ means the ex-
8 cess (if any) of—

9 “(i) the amount of long-term capital
10 gain (not otherwise treated as ordinary in-
11 come) which would be treated as ordinary
12 income if—

13 “(I) section 1250(b)(1) included
14 all depreciation and the applicable
15 percentage under section 1250(a)
16 were 100 percent, and

17 “(II) only gain from property
18 held for more than 18 months were
19 taken into account, over

20 “(ii) the excess (if any) of—

21 “(I) the amount described in
22 paragraph (5)(A)(ii), over

23 “(II) the amount described in
24 paragraph (5)(A)(i).

1 “(B) LIMITATION WITH RESPECT TO SEC-
2 TION 1231 PROPERTY.—The amount described
3 in subparagraph (A)(i) from sales, exchanges,
4 and conversions described in section
5 1231(a)(3)(A) for any taxable year shall not ex-
6 ceed the net section 1231 gain (as defined in
7 section 1231(e)(3)) for such year.

8 “(8) SECTION 1202 GAIN.—For purposes of this
9 subsection, the term ‘section 1202 gain’ means an
10 amount equal to the gain excluded from gross in-
11 come under section 1202(a).

12 “(9) QUALIFIED 5-YEAR GAIN.—For purposes
13 of this subsection, the term ‘qualified 5-year gain’
14 means the amount of long-term capital gain which
15 would be computed for the taxable year if only gains
16 from the sale or exchange of property held by the
17 taxpayer for more than 5 years were taken into ac-
18 count. The determination under the preceding sen-
19 tence shall be made without regard to collectibles
20 gain, gain described in paragraph (7)(A)(i), and sec-
21 tion 1202 gain.

22 “(10) COORDINATION WITH RECAPTURE OF
23 NET ORDINARY LOSSES UNDER SECTION 1231.—If
24 any amount is treated as ordinary income under sec-
25 tion 1231(c), such amount shall be allocated among

1 the separate categories of net section 1231 gain (as
2 defined in section 1231(c)(3)) in such manner as the
3 Secretary may by forms or regulations prescribe.

4 “(11) REGULATIONS.—The Secretary may pre-
5 scribe such regulations as are appropriate (including
6 regulations requiring reporting) to apply this sub-
7 section in the case of sales and exchanges by pass-
8 thru entities and of interests in such entities.

9 “(12) PASS-THRU ENTITY DEFINED.—For pur-
10 poses of this subsection, the term ‘pass-thru entity’
11 means—

12 “(A) a regulated investment company,

13 “(B) a real estate investment trust,

14 “(C) an S corporation,

15 “(D) a partnership,

16 “(E) an estate or trust,

17 “(F) a common trust fund,

18 “(G) a foreign investment company which
19 is described in section 1246(b)(1) and for which
20 an election is in effect under section 1247, and

21 “(H) a qualified electing fund (as defined
22 in section 1295).

23 “(13) SPECIAL RULES FOR PERIODS DURING
24 1997.—

1 “(A) DETERMINATION OF 28 PERCENT
2 RATE GAIN.—In applying paragraph (5)—

3 “(i) the amount determined under
4 subclause (I) of paragraph (5)(A)(i) shall
5 include long-term capital gain (not other-
6 wise described in paragraph (5)(A)(i))
7 which is properly taken into account for
8 the portion of the taxable year before May
9 7, 1997,

10 “(ii) the amounts determined under
11 subclause (I) of paragraph (5)(A)(ii) shall
12 include long-term capital loss (not other-
13 wise described in paragraph (5)(A)(ii))
14 which is properly taken into account for
15 the portion of the taxable year before May
16 7, 1997, and

17 “(iii) clauses (i)(I) and (ii)(I) of para-
18 graph (5)(A) shall be applied by not taking
19 into account any gain and loss on property
20 held for more than 1 year but not more
21 than 18 months which is properly taken
22 into account for the portion of the taxable
23 year after May 6, 1997, and before July
24 29, 1997.

25 “(B) OTHER SPECIAL RULES.—

1 “(i) DETERMINATION OF
2 UNRECAPTURED SECTION 1250 GAIN NOT
3 TO INCLUDE PRE-MAY 7, 1997 GAIN.—The
4 amount determined under paragraph
5 (7)(A)(i) shall not include gain properly
6 taken into account for the portion of the
7 taxable year before May 7, 1997.

8 “(ii) OTHER TRANSITIONAL RULES
9 FOR 18-MONTH HOLDING PERIOD.—Para-
10 graphs (6)(A) and (7)(A)(i)(II) shall be
11 applied by substituting ‘1 year’ for ‘18
12 months’ with respect to gain properly
13 taken into account for the portion of the
14 taxable year after May 6, 1997, and before
15 July 29, 1997.

16 “(C) SPECIAL RULES FOR PASS-THRU EN-
17 TITIES.—In applying this paragraph with re-
18 spect to any pass-thru entity, the determination
19 of when gains and loss are properly taken into
20 account shall be made at the entity level.”.

21 (2) IN GENERAL.—Paragraph (3) of section
22 55(b) of the 1986 Code is amended to read as fol-
23 lows:

24 “(3) MAXIMUM RATE OF TAX ON NET CAPITAL
25 GAIN OF NONCORPORATE TAXPAYERS.—The amount

1 determined under the first sentence of paragraph
2 (1)(A)(i) shall not exceed the sum of—

3 “(A) the amount determined under such
4 first sentence computed at the rates and in the
5 same manner as if this paragraph had not been
6 enacted on the taxable excess reduced by the
7 lesser of—

8 “(i) the net capital gain, or

9 “(ii) the sum of—

10 “(I) the adjusted net capital
11 gain, plus

12 “(II) the unrecaptured section
13 1250 gain, plus

14 “(B) 10 percent of so much of the ad-
15 justed net capital gain (or, if less, taxable ex-
16 cess) as does not exceed the amount on which
17 a tax is determined under section 1(h)(1)(B),
18 plus

19 “(C) 20 percent of the adjusted net capital
20 gain (or, if less, taxable excess) in excess of the
21 amount on which tax is determined under sub-
22 paragraph (B), plus

23 “(D) 25 percent of the amount of taxable
24 excess in excess of the sum of the amounts on

1 which tax is determined under the preceding
2 subparagraphs of this paragraph.

3 In the case of taxable years beginning after Decem-
4 ber 31, 2000, rules similar to the rules of section
5 1(h)(2) shall apply for purposes of subparagraphs
6 (B) and (C). Terms used in this paragraph which
7 are also used in section 1(h) shall have the respec-
8 tive meanings given such terms by section 1(h) but
9 computed with the adjustments under this part.”.

10 (3) Section 57(a)(7) of the 1986 Code is
11 amended by adding at the end the following new
12 sentence: “In the case of stock the holding period of
13 which begins after December 31, 2000 (determined
14 with the application of the last sentence of section
15 1(h)(2)(B)), the preceding sentence shall be applied
16 by substituting ‘28 percent’ for ‘42 percent’.”.

17 (4) Paragraphs (11) and (12) of section 1223,
18 and section 1235(a), of the 1986 Code are each
19 amended by striking “1 year” each place it appears
20 and inserting “18 months”.

21 (e) AMENDMENTS RELATED TO SECTION 312 OF
22 1997 ACT.—

23 (1) Section 121(c)(1) of the 1986 Code is
24 amended to read as follows:

1 “(1) IN GENERAL.—In the case of a sale or ex-
2 change to which this subsection applies, the owner-
3 ship and use requirements of subsection (a), and
4 subsection (b)(3), shall not apply; but the dollar lim-
5 itation under paragraph (1) or (2) of subsection (b),
6 whichever is applicable, shall be equal to—

7 “(A) the amount which bears the same
8 ratio to such limitation (determined without re-
9 gard to this paragraph) as

10 “(B)(i) the shorter of—

11 “(I) the aggregate periods, during the
12 5-year period ending on the date of such
13 sale or exchange, such property has been
14 owned and used by the taxpayer as the
15 taxpayer’s principal residence, or

16 “(II) the period after the date of the
17 most recent prior sale or exchange by the
18 taxpayer to which subsection (a) applied
19 and before the date of such sale or ex-
20 change, bears to

21 “(ii) 2 years.”.

22 (2) Section 312(d)(2) of the 1997 Act (relating
23 to sales before date of enactment) is amended by in-
24 serting “on or” before “before” each place it ap-
25 pears in the text and heading.

1 (f) AMENDMENT RELATED TO SECTION 313 OF 1997
2 ACT.—Section 1045 of the 1986 Code is amended by add-
3 ing at the end the following new subsection:

4 “(c) LIMITATION ON APPLICATION TO PARTNER-
5 SHIPS AND S CORPORATIONS.—Subsection (a) shall apply
6 to a partnership or S corporation for a taxable year only
7 if at all times during such taxable year all of the partners
8 in the partnership, or all of the shareholders of the S cor-
9 poration, are natural persons or estates.”.

10 **SEC. 606. AMENDMENTS RELATED TO TITLE V OF 1997 ACT.**

11 (a) AMENDMENTS RELATED TO SECTION 501 OF
12 1997 ACT.—

13 (1) Subsection (e) of section 2631 of the 1986
14 Code is amended by striking “an individual who
15 dies” and inserting “a generation-skipping trans-
16 fer”.

17 (2) Subsection (f) of section 501 of the 1997
18 Act is amended by inserting “(other than the
19 amendment made by subsection (d))” after “this
20 section”.

21 (b) AMENDMENTS RELATED TO SECTION 502 OF
22 1997 ACT.—

23 (1) Subsection (a) of section 2033A of the 1986
24 Code is amended to read as follows:

25 “(a) EXCLUSION.—

1 “(1) IN GENERAL.—In the case of an estate of
2 a decedent to which this section applies, the value of
3 the gross estate shall not include the lesser of—

4 “(A) the adjusted value of the qualified
5 family-owned business interests of the decedent
6 otherwise includible in the estate, or

7 “(B) the exclusion limitation with respect
8 to such estate.

9 “(2) EXCLUSION LIMITATION.—

10 “(A) IN GENERAL.—The exclusion limita-
11 tion with respect to any estate is the amount of
12 reduction in the tentative tax base with respect
13 to such estate which would be required in order
14 to reduce the tax imposed by section 2001(b)
15 (determined without regard to this section) by
16 an amount equal to the maximum credit equiva-
17 lent benefit.

18 “(B) MAXIMUM CREDIT EQUIVALENT BEN-
19 EFIT.—For purposes of subparagraph (A), the
20 term ‘maximum credit equivalent benefit’ means
21 the excess of—

22 “(i) the amount by which the ten-
23 tative tax imposed by section 2001(b) (de-
24 termined without regard to this section)

1 would be reduced if the tentative tax base
2 were reduced by \$675,000, over

3 “(ii) the amount by which the applica-
4 ble credit amount under section 2010(c)
5 with respect to such estate exceeds such
6 applicable credit amount in effect for
7 1998.

8 “(C) TENTATIVE TAX BASE.—For pur-
9 poses of this paragraph, the term ‘tentative tax
10 base’ means the amount with respect to which
11 the tax imposed by section 2001(b) would be
12 computed without regard to this section.”.

13 (2) Section 2033A(b)(3) of the 1986 Code is
14 amended to read as follows:

15 “(3) INCLUDIBLE GIFTS OF INTERESTS.—The
16 amount of the gifts of qualified family-owned busi-
17 ness interests determined under this paragraph is
18 the sum of—

19 “(A) the amount of such gifts from the de-
20 cedent to members of the decedent’s family
21 taken into account under section
22 2001(b)(1)(B), plus

23 “(B) the amount of such gifts otherwise
24 excluded under section 2503(b),

1 to the extent such interests are continuously held by
2 members of such family (other than the decedent's
3 spouse) between the date of the gift and the date of
4 the decedent's death.”.

5 (c) AMENDMENTS RELATED TO SECTION 503 OF
6 THE 1997 ACT.—

7 (1) Clause (iii) of section 6166(b)(7)(A) of the
8 1986 Code is amended to read as follows:

9 “(iii) for purposes of applying section
10 6601(j), the 2-percent portion (as defined
11 in such section) shall be treated as being
12 zero.”.

13 (2) Clause (iii) of section 6166(b)(8)(A) of the
14 1986 Code is amended to read as follows:

15 “(iii) 2-PERCENT INTEREST RATE NOT
16 TO APPLY.—For purposes of applying sec-
17 tion 6601(j), the 2-percent portion (as de-
18 fined in such section) shall be treated as
19 being zero.”.

20 (d) AMENDMENT RELATED TO SECTION 505 OF THE
21 1997 ACT.—Paragraphs (1) and (2) of section 7479(a)
22 of the 1986 Code are each amended by striking “an es-
23 tate,” and inserting “an estate (or with respect to any
24 property included therein),”.

1 (e) AMENDMENTS RELATED TO SECTION 506 OF
2 THE 1997 ACT.—

3 (1) Subsection (c) of section 2504 of the 1986
4 Code is amended by striking “was assessed or paid”
5 and inserting “was finally determined for purposes
6 of this chapter”.

7 (2) Paragraph (1) of section 506(e) of the 1997
8 Act is amended by striking “and (c)” and inserting
9 “, (c), and (d)”.

10 **SEC. 607. AMENDMENTS RELATED TO TITLE VII OF 1997**
11 **ACT.**

12 (a) AMENDMENT RELATED TO SECTION 1400 OF
13 1986 CODE.—Section 1400(b)(2)(B) of the 1986 Code is
14 amended by inserting “as determined on the basis of the
15 1990 census” after “percent”.

16 (b) AMENDMENTS RELATED TO SECTION 1400B OF
17 1986 CODE.—

18 (1) Section 1400B(d)(2) of the 1986 Code is
19 amended by inserting “as determined on the basis of
20 the 1990 census” after “percent”.

21 (2) Section 1400B(b) of the 1986 Code is
22 amended by redesignating paragraphs (6) and (7) as
23 paragraphs (5) and (6), respectively.

24 (c) AMENDMENTS RELATED TO SECTION 1400C OF
25 1986 CODE.—

1 (1) Paragraph (1) of section 1400C(c) of the
2 1986 Code is amended to read as follows:

3 “(1) IN GENERAL.—The term ‘first-time home-
4 buyer’ means any individual if such individual (and
5 if married, such individual’s spouse) had no present
6 ownership interest in a principal residence in the
7 District of Columbia during the 1-year period ending
8 on the date of the purchase of the principal resi-
9 dence to which this section applies.”.

10 (2) Subparagraph (B) of section 1400C(e)(2) of
11 the 1986 Code is amended by inserting before the
12 period “on the date the taxpayer first occupies such
13 residence”.

14 (3) Paragraph (3) of section 1400C(e) of the
15 1986 Code is amended by striking all that follows
16 “principal residence” and inserting “on the date
17 such residence is purchased.”.

18 (4) Subsection (i) of section 1400C of the 1986
19 Code is amended to read as follows:

20 “(i) APPLICATION OF SECTION.—This section shall
21 apply to property purchased after August 4, 1997, and
22 before January 1, 2001.”.

23 (5) Subsection (c) of section 23 of the 1986
24 Code is amended by inserting “and section 1400C”
25 after “other than this section”.

1 (6) Subparagraph (C) of section 25(e)(1) of the
2 1986 Code is amended by striking “section 23” and
3 inserting “sections 23 and 1400C”.

4 **SEC. 608. AMENDMENTS RELATED TO TITLE IX OF 1997 ACT.**

5 (a) AMENDMENT RELATED TO SECTION 901 OF 1997
6 ACT.—Section 9503(c)(7) of the 1986 Code is amended—

7 (1) by striking “resulting from the amendments
8 made by” and inserting “(and transfers to the Mass
9 Transit Account) resulting from the amendments
10 made by subsections (a) and (b) of section 901 of”,
11 and

12 (2) by inserting before the period “and deposits
13 in the Highway Trust Fund (and transfers to the
14 Mass Transit Account) shall be treated as made
15 when they would have been required to be made
16 without regard to section 901(e) of the Taxpayer
17 Relief Act of 1997”.

18 (b) AMENDMENT RELATED TO SECTION 907 OF 1997
19 ACT.—Paragraph (2) of section 9503(e) of the 1986 Code
20 is amended by striking the last sentence and inserting the
21 following new sentence: “For purposes of the preceding
22 sentence, the term ‘mass transit portion’ means, for any
23 fuel with respect to which tax was imposed under section
24 4041 or 4081 and otherwise deposited into the Highway
25 Trust Fund, the amount determined at the rate of—

1 “(A) except as otherwise provided in this
2 sentence, 2.86 cents per gallon,

3 “(B) 1.77 cents per gallon in the case of
4 any partially exempt methanol or ethanol fuel
5 (as defined in section 4041(m)) none of the al-
6 cohol in which consists of ethanol,

7 “(C) 1.86 cents per gallon in the case of
8 liquefied natural gas,

9 “(D) 2.13 cents per gallon in the case of
10 liquefied petroleum gas, and

11 “(E) 9.71 cents per MCF (determined at
12 standard temperature and pressure) in the case
13 of compressed natural gas.”.

14 (c) AMENDMENT RELATED TO SECTION 976 OF 1997
15 ACT.—Section 6103(d)(5) of the 1986 Code is amended
16 by striking “section 967 of the Taxpayer Relief Act of
17 1997.” and inserting “section 976 of the Taxpayer Relief
18 Act of 1997. Subsections (a)(2) and (p)(4) and sections
19 7213 and 7213A shall not apply with respect to disclo-
20 sures or inspections made pursuant to this paragraph.”.

21 **SEC. 609. AMENDMENTS RELATED TO TITLE X OF 1997 ACT.**

22 (a) AMENDMENTS RELATED TO SECTION 1001 OF
23 1997 ACT.—

24 (1) Paragraph (2) of section 1259(b) of the
25 1986 Code is amended—

1 (A) by striking “debt” each place it ap-
2 pears in clauses (i) and (ii) of subparagraph
3 (A) and inserting “position”,

4 (B) by striking “and” at the end of sub-
5 paragraph (A), and

6 (C) by redesignating subparagraph (B) as
7 subparagraph (C) and by inserting after sub-
8 paragraph (A) the following new subparagraph:

9 “(B) any hedge with respect to a position
10 described in subparagraph (A), and”.

11 (2) Section 1259(d)(1) of the 1986 Code is
12 amended by inserting “(including cash)” after
13 “property”.

14 (3) Subparagraph (D) of section 475(f)(1) of
15 the 1986 Code is amended by adding at the end the
16 following new sentence: “Subsection (d)(3) shall not
17 apply under the preceding sentence for purposes of
18 applying sections 1402 and 7704.”.

19 (4) Subparagraph (C) of section 1001(d)(3) of
20 the 1997 Act is amended by striking “within the 30-
21 day period beginning on” and inserting “before the
22 close of the 30th day after”.

23 (b) AMENDMENTS RELATED TO SECTION 1012 OF
24 1997 Act.—

1 (1) Paragraph (1) of section 1012(d) of the
2 1997 Act is amended by striking “1997, pursuant”
3 and inserting “1997; except that the amendment
4 made by subsection (a) shall apply to such distribu-
5 tions only if pursuant”.

6 (2) Subparagraph (A) of section 355(e)(3) of
7 the 1986 Code is amended—

8 (A) by striking “shall not be treated as de-
9 scribed in” and inserting “shall not be taken
10 into account in applying”, and

11 (B) by striking clause (iv) and inserting
12 the following new clause:

13 “(iv) The acquisition of stock in the
14 distributing corporation or any controlled
15 corporation to the extent that the percent-
16 age of stock owned directly or indirectly in
17 such corporation by each person owning
18 stock in such corporation immediately be-
19 fore the acquisition does not decrease.”.

20 (c) AMENDMENTS RELATED TO SECTION 1014 OF
21 1997 ACT.—

22 (1) Paragraph (1) of section 351(g) of the 1986
23 Code is amended by adding “and” at the end of sub-
24 paragraph (A) and by striking subparagraphs (B)

1 and (C) and inserting the following new subpara-
2 graph:

3 “(B) if (and only if) the transferor receives
4 stock other than nonqualified preferred stock—

5 “(i) subsection (b) shall apply to such
6 transferor, and

7 “(ii) such nonqualified preferred stock
8 shall be treated as other property for pur-
9 poses of applying subsection (b).”.

10 (2) Clause (ii) of section 354(a)(2)(C) of 1986
11 Code is amended by adding at the end the following
12 new subclause:

13 “(III) EXTENSION OF STATUTE
14 OF LIMITATIONS.—The statutory pe-
15 riod for the assessment of any defi-
16 ciency attributable to a corporation
17 failing to be a family-owned corpora-
18 tion shall not expire before the expira-
19 tion of 3 years after the date the Sec-
20 retary is notified by the corporation
21 (in such manner as the Secretary may
22 prescribe) of such failure, and such
23 deficiency may be assessed before the
24 expiration of such 3-year period not-
25 withstanding the provisions of any

1 other law or rule of law which would
2 otherwise prevent such assessment.”.

3 (d) AMENDMENT RELATED TO SECTION 1024 OF
4 1997 ACT.—Section 6331(h)(1) of the 1986 Code is
5 amended by striking “The effect of a levy” and inserting
6 “If the Secretary approves a levy under this subsection,
7 the effect of such levy”.

8 (e) AMENDMENTS RELATED TO SECTION 1031 OF
9 1997 ACT.—

10 (1) Subsection (l) of section 4041 of the 1986
11 Code is amended by striking “subsection (e) or (f)”
12 and inserting “subsection (f) or (g)”.

13 (2) Subsection (b) of section 9502 of the 1986
14 Code is amended by moving the sentence added at
15 the end of paragraph (1) to the end of such sub-
16 section.

17 (3) Subsection (e) of section 6421 of the 1986
18 Code is amended—

19 (A) by striking “(2)(A)” and inserting
20 “(2)”, and

21 (B) by adding at the end the following sen-
22 tence: “Subsection (a) shall not apply to gaso-
23 line to which this subsection applies.”.

24 (f) AMENDMENTS RELATED TO SECTION 1032 OF
25 1997 ACT.—

1 (1) Section 1032(a) of the 1997 Act is amended
2 by striking “Subsection (a) of section 4083” and in-
3 serting “Paragraph (1) of section 4083(a)”.

4 (2) Section 1032(e)(12)(A) of the 1997 Act
5 shall be applied as if “gasoline, diesel fuel,” were the
6 material proposed to be stricken.

7 (3) Paragraph (1) of section 4101(e) of the
8 1986 Code is amended by striking “dyed diesel fuel
9 and kerosene” and inserting “such fuel in a dyed
10 form”.

11 (g) AMENDMENT RELATED TO SECTION 1055 OF
12 1997 ACT.—Section 6611(g)(1) of the 1986 Code is
13 amended by striking “(e), and (h)” and inserting “and
14 (e)”.

15 (h) AMENDMENT RELATED TO SECTION 1083 OF
16 1997 ACT.—Section 1083(a)(2) of the 1997 Act is amend-
17 ed—

18 (1) by striking “21” and inserting “20”, and

19 (2) by striking “22” and inserting “21”.

20 (i) AMENDMENT RELATED TO SECTION 1084 OF
21 1997 ACT.—

22 (1) Paragraph (3) of section 264(a) of the 1986
23 Code is amended by striking “subsection (c)” and
24 inserting “subsection (d)”.

1 (2) Paragraph (4) of section 264(a) of the 1986
2 Code is amended by striking “subsection (d)” and
3 inserting “subsection (e)”.

4 (3) Paragraph (4) of section 264(f) of the 1986
5 Code is amended by adding at the end the following
6 new subparagraph:

7 “(E) MASTER CONTRACTS.—If coverage
8 for each insured under a master contract is
9 treated as a separate contract for purposes of
10 sections 817(h), 7702, and 7702A, coverage for
11 each such insured shall be treated as a separate
12 contract for purposes of subparagraph (A). For
13 purposes of the preceding sentence, the term
14 ‘master contract’ shall not include any group
15 life insurance contract (as defined in section
16 848(e)(2)).”.

17 (4)(A) Clause (iv) of section 264(f)(5)(A) of the
18 1986 Code is amended by striking the second sen-
19 tence.

20 (B) Subparagraph (B) of section 6724(d)(1) of
21 the 1986 Code is amended by striking “or” at the
22 end of clause (xv), by striking the period at the end
23 of clause (xvi) and inserting “, or”, and by adding
24 at the end the following new clause:

1 “(xvii) section 264(f)(5)(A)(iv) (relat-
2 ing to reporting with respect to certain life
3 insurance and annuity contracts).”.

4 (C) Paragraph (2) of section 6724(d) of the
5 1986 Code is amended by striking “or” at the end
6 of subparagraph (Y), by striking the period at the
7 end of subparagraph (Z) and inserting “or”, and by
8 adding at the end the following new subparagraph:

9 “(AA) section 264(f)(5)(A)(iv) (relating to
10 reporting with respect to certain life insurance
11 and annuity contracts).”.

12 (j) AMENDMENT RELATED TO SECTION 1085 OF
13 1997 ACT.—Paragraph (5) of section 32(c) of the 1986
14 Code is amended—

15 (1) by inserting before the period at the end of
16 subparagraph (A) “and increased by the amounts
17 described in subparagraph (C)”,

18 (2) by adding “or” at the end of clause (iii) of
19 subparagraph (B), and

20 (3) by striking all that follows subclause (II) of
21 subparagraph (B)(iv) and inserting the following:

22 “(III) other trades or businesses.

23 For purposes of clause (iv), there shall not
24 be taken into account items which are at-
25 tributable to a trade or business which

1 consists of the performance of services by
2 the taxpayer as an employee.

3 “(C) CERTAIN AMOUNTS INCLUDED.—An
4 amount is described in this subparagraph if it
5 is—

6 “(i) interest received or accrued dur-
7 ing the taxable year which is exempt from
8 tax imposed by this chapter, or

9 “(ii) amounts received as a pension or
10 annuity, and any distributions or payments
11 received from an individual retirement
12 plan, by the taxpayer during the taxable
13 year to the extent not included in gross in-
14 come.

15 Clause (ii) shall not include any amount which
16 is not includible in gross income by reason of
17 section 402(c), 403(a)(4), 403(b), 408(d) (3),
18 (4), or (5), or 457(e)(10).”.

19 (k) AMENDMENT RELATED TO SECTION 1088 OF
20 1997 ACT.—Section 1088(b)(2)(C) of the 1997 Act is
21 amended by inserting “more than 1 year” before “after”.

22 (l) AMENDMENT RELATED TO SECTION 1089 OF
23 1997 ACT.—Paragraphs (1)(C) and (2)(C) of section
24 664(d) of the 1986 Code are each amended by adding “,
25 and” at the end.

1 **SEC. 610. AMENDMENTS RELATED TO TITLE XI OF 1997 ACT.**

2 (a) AMENDMENT RELATED TO SECTION 1103 OF
3 1997 ACT.—The paragraph (3) of section 59(a) added by
4 section 1103 of the 1997 Act is redesignated as paragraph
5 (4).

6 (b) AMENDMENT RELATED TO SECTION 1121 OF
7 1997 ACT.—Section 1298(a)(2)(B) of the 1986 Code is
8 amended by adding at the end the following new sentence:
9 “Section 1297(e) shall not apply in determining whether
10 a corporation is a passive foreign investment company for
11 purposes of this subparagraph.”.

12 (c) AMENDMENT RELATED TO SECTION 1122 OF
13 1997 ACT.—Section 672(f)(3)(B) of the 1986 Code is
14 amended by striking “section 1296” and inserting “sec-
15 tion 1297”.

16 (d) AMENDMENT RELATED TO SECTION 1123 OF
17 1997 ACT.—The subsection (e) of section 1297 of the
18 1986 Code added by section 1123 of the 1997 Act is re-
19 designated as subsection (f).

20 (e) AMENDMENT RELATED TO SECTION 1144 OF
21 1997 ACT.—Paragraphs (1) and (2) of section 1144(c)
22 of the 1997 Act are each amended by striking “6038B(b)”
23 and inserting “6038B(c) (as redesignated by subsection
24 (b))”.

1 **SEC. 611. AMENDMENTS RELATED TO TITLE XII OF 1997**
2 **ACT.**

3 (a) AMENDMENT RELATED TO SECTION 1204 OF
4 1997 ACT.—The last sentence of section 162(a) of the
5 1986 Code is amended by striking “investigate” and all
6 that follows and inserting “investigate or prosecute, or
7 provide support services for the investigation or prosecu-
8 tion of, a Federal crime.”.

9 (b) AMENDMENTS RELATED TO SECTION 1205 OF
10 1997 ACT.—

11 (1) Section 6311(e)(1) of the 1986 Code is
12 amended by striking “section 6103(k)(8)” and in-
13 serting “section 6103(k)(9)”.

14 (2) Paragraph (8) of section 6103(k) of the
15 1986 Code (as added by section 1205(c)(1) of the
16 1997 Act) is redesignated as paragraph (9).

17 (3) The heading for section 7431(g) of the
18 1986 Code is amended by striking “(8)” and insert-
19 ing “(9)”.

20 (4) Section 1205(c)(3) of the 1997 Act shall be
21 applied as if it read as follows:

22 “(3) Section 6103(p)(3)(A), as amended by sec-
23 tion 1026(b)(1)(A), is amended by striking “or (8)”
24 and inserting “(8), or (9)”.

1 (5) Section 1213(b) of the 1997 Act is amended
2 by striking “section 6724(d)(1)(A)” and inserting
3 “section 6724(d)(1)”.

4 (c) AMENDMENT RELATED TO SECTION 1226 OF
5 1997 ACT.—Section 1226 of the 1997 Act is amended by
6 striking “ending on or” and inserting “beginning”.

7 (d) AMENDMENT RELATED TO SECTION 1285 OF
8 1997 ACT.—Section 7430(b) of the 1986 Code is amended
9 by redesignating paragraph (5) as paragraph (4).

10 **SEC. 612. AMENDMENTS RELATED TO TITLE XIII OF 1997**
11 **ACT.**

12 (a) Section 646 of the 1986 Code is redesignated as
13 section 645.

14 (b) The item relating to section 646 in the table of
15 sections for subpart A of part I of subchapter J of chapter
16 1 of the 1986 Code is amended by striking “Sec. 646”
17 and inserting “Sec. 645”.

18 (c) Paragraph (1) of section 2652(b) of the 1986
19 Code is amended by striking “section 646” and inserting
20 “section 645”.

21 (d) Paragraph (3) of section 1(g) of the 1986 Code
22 is amended by striking subparagraph (C) and by redesignig-
23 nating subparagraph (D) as subparagraph (C).

1 (e) Section 641 of the 1986 Code is amended by
2 striking subsection (c) and by redesignating subsection (d)
3 as subsection (c).

4 (f) Paragraph (4) of section 1361(e) of the 1986
5 Code is amended by striking “section 641(d)” and insert-
6 ing “section 641(c)”.

7 (g) Subparagraph (A) of section 6103(e)(1) of the
8 1986 Code is amended by striking clause (ii) and by redes-
9 ignating clauses (iii) and (iv) as clauses (ii) and (iii), re-
10 spectively.

11 **SEC. 613. AMENDMENTS RELATED TO TITLE XIV OF 1997**

12 **ACT.**

13 (a) AMENDMENT RELATED TO SECTION 1434 OF
14 1997 ACT.—Paragraph (2) of section 4052(f) of the 1986
15 Code is amended by striking “this section” and inserting
16 “such section”.

17 (b) AMENDMENT RELATED TO SECTION 1436 OF
18 1997 ACT.—Paragraph (2) of section 4091(a) of the 1986
19 Code is amended by inserting “or on which tax has been
20 credited or refunded” after “such paragraph”.

21 **SEC. 614. AMENDMENTS RELATED TO TITLE XV OF 1997**

22 **ACT.**

23 (a) AMENDMENT RELATED TO SECTION 1501 OF
24 1997 ACT.—The paragraph (8) of section 408(p) of the

1 1986 Code added by section 1501(b) of the 1997 Act is
2 redesignated as paragraph (9).

3 (b) AMENDMENT RELATED TO SECTION 1505 OF
4 1997 ACT.—Section 1505(d)(2) of the 1997 Act is amend-
5 ed by striking “(b)(12)” and inserting “(b)(12)(A)(i)”.

6 (c) AMENDMENT RELATED TO SECTION 1531 OF
7 1997 ACT.—Subsection (f) of section 9811 of the 1986
8 Code (as added by section 1531 of the 1997 Act) is redес-
9 igned as subsection (e).

10 **SEC. 615. AMENDMENTS RELATED TO TITLE XVI.**

11 (a) AMENDMENTS RELATED TO SECTION 1601(d) OF
12 1997 ACT.—

13 (1) AMENDMENTS RELATED TO SECTION
14 1601(d)(1)—

15 (A) Section 408(p)(2)(D)(i) of the 1986
16 Code is amended by striking “or (B)” in the
17 last sentence.

18 (B) Section 408(p) of the 1986 Code is
19 amended by adding at the end the following:

20 “(10) SPECIAL RULES FOR ACQUISITIONS, DIS-
21 POSITIONS, AND SIMILAR TRANSACTIONS.—

22 “(A) IN GENERAL.—An employer which
23 fails to meet any applicable requirement by rea-
24 son of an acquisition, disposition, or similar
25 transaction shall not be treated as failing to

1 meet such requirement during the transition pe-
2 riod if—

3 “(i) the employer satisfies require-
4 ments similar to the requirements of sec-
5 tion 410(b)(6)(C)(i)(II), and

6 “(ii) the qualified salary reduction ar-
7 rangement maintained by the employer
8 would satisfy the requirements of this sub-
9 section after the transaction if the em-
10 ployer which maintained the arrangement
11 before the transaction had remained a sep-
12 arate employer.

13 “(B) APPLICABLE REQUIREMENT.—For
14 purposes of this paragraph, the term ‘applicable
15 requirement’ means—

16 “(i) the requirement under paragraph
17 (2)(A)(i) that an employer be an eligible
18 employer,

19 “(ii) the requirement under paragraph
20 (2)(D) that an arrangement be the only
21 plan of an employer, and

22 “(iii) the participation requirements
23 under paragraph (4).

24 “(C) TRANSITION PERIOD.—For purposes
25 of this paragraph, the term ‘transition period’

1 means the period beginning on the date of any
2 transaction described in subparagraph (A) and
3 ending on the last day of the second calendar
4 year following the calendar year in which such
5 transaction occurs.”.

6 (C) Section 408(p)(2) of the 1986 Code is
7 amended—

8 (i) by striking “the preceding sentence
9 shall apply only in accordance with rules
10 similar to the rules of section
11 410(b)(6)(C)(i)” in the last sentence of
12 subparagraph (C)(i)(II) and inserting “the
13 preceding sentence shall not apply”, and

14 (ii) by striking clause (iii) of subpara-
15 graph (D).

16 (2) AMENDMENT TO SECTION 1601(d)(4).—Sec-
17 tion 1601(d)(4)(A) of the 1997 Act is amended—

18 (A) by striking “Section 403(b)(11)” and
19 inserting “Paragraphs (7)(A)(ii) and (11) of
20 section 403(b)”, and

21 (B) by striking “403(b)(1)” in clause (ii)
22 and inserting “403(b)(10)”.

23 (b) AMENDMENT RELATED TO SECTION 1601(f)(4)
24 OF 1997 ACT.—Subsection (d) of section 6427 of the
25 1986 Code is amended—

1 (1) by striking “HELICOPTERS” in the heading
2 and inserting “OTHER AIRCRAFT USES”, and
3 (2) by inserting “or a fixed-wing aircraft” after
4 “helicopter”.

5 **SEC. 616. AMENDMENT RELATED TO OMNIBUS BUDGET**
6 **RECONCILIATION ACT OF 1993.**

7 (a) IN GENERAL.—Section 196(c) of the 1986 Code
8 is amended by striking “and” at the end of paragraph (6),
9 by striking the period at the end of paragraph (7), and
10 insert “, and”, and by adding at the end the following
11 new paragraph:

12 “(8) the employer social security credit deter-
13 mined under section 45B(a).”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect as if included in the amend-
16 ments made by section 13443 of the Revenue Reconcili-
17 ation Act of 1993.

18 **SEC. 617. AMENDMENT RELATED TO TAX REFORM ACT OF**
19 **1984.**

20 (a) IN GENERAL.—Paragraph (3) of section 136(c)
21 of the Tax Reform Act of 1984 is amended by adding at
22 the end the following flush sentence:

23 “The treatment under the preceding sentence shall
24 apply to each period after June 30, 1983, during
25 which such members are stapled entities, whether or

1 not such members are stapled entities for all periods
2 after June 30, 1983.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect as if included in the Tax
5 Reform Act of 1984 as of the date of the enactment of
6 such Act.

7 **SEC. 618. AMENDMENT RELATED TO TAX REFORM ACT OF**
8 **1986.**

9 (a) IN GENERAL.—Section 6401(b)(1) of the 1986
10 Code is amended by striking “and D” and inserting “D,
11 and G”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall take effect as if included in the
14 amendments made by section 701(b) of the Tax Reform
15 Act of 1986.

16 **SEC. 619. MISCELLANEOUS CLERICAL AND DEADWOOD**
17 **CHANGES.**

18 (a)(1) Section 6421 of the 1986 Code is amended by
19 redesignating subsections (j) and (k) as subsections (i)
20 and (j), respectively.

21 (2) Subsection (b) of section 34 of the 1986 Code
22 is amended by striking “section 6421(j)” and inserting
23 “section 6421(i)”.

1 (3) Subsections (a) and (b) of section 6421 of the
2 1986 Code are each amended by striking “subsection (j)”
3 and inserting “subsection (i)”.

4 (b) Sections 4092(b) and 6427(q)(2) of the 1986
5 Code are each amended by striking “section 4041(c)(4)”
6 and inserting “section 4041(c)(2)”.

7 (c) Sections 4221(c) and 4222(d) of the 1986 Code
8 are each amended by striking “4053(a)(6)” and inserting
9 “4053(6)”.

10 (d) Paragraph (5) of section 6416(b) of the 1986
11 Code is amended by striking “section 4216(e)(1)” each
12 place it appears and inserting “section 4216(d)(1)”.

13 (e) Paragraph (3) of section 6427(f) of the 1986
14 Code is amended by striking “, (e),”.

15 (f)(1) Section 6427 of the 1986 Code, as amended
16 by paragraph (2), is amended by redesignating subsections
17 (n), (p), (q), and (r) as subsections (m), (n), (o), and (p),
18 respectively.

19 (2) Paragraphs (1) and (2)(A) of section 6427(i) of
20 the 1986 Code are each amended by striking “(q)” and
21 inserting “(o)”.

22 (g) Subsection (e) of section 9502 of the 1986 Code
23 is amended to read as follows:

24 “(e) CERTAIN TAXES ON ALCOHOL MIXTURES TO
25 REMAIN IN GENERAL FUND.—For purposes of this sec-

1 tion, the amounts which would (but for this subsection)
2 be required to be appropriated under subparagraphs (A),
3 (C), and (D) of subsection (b)(1) shall be reduced by—

4 “(1) 0.6 cent per gallon in the case of taxes im-
5 posed on any mixture at least 10 percent of which
6 is alcohol (as defined in section 4081(c)(3)) if any
7 portion of such alcohol is ethanol, and

8 “(2) 0.67 cent per gallon in the case of fuel
9 used in producing a mixture described in paragraph
10 (1).”.

11 (h)(1) Clause (i) of section 9503(c)(2)(A) of the 1986
12 Code is amended by adding “and” at the end of subclause
13 (II), by striking subclause (III), and by redesignating sub-
14 clause (IV) as subclause (III).

15 (2) Clause (ii) of such section is amended by striking
16 “gasoline, special fuels, and lubricating oil” each place it
17 appears and inserting “fuel”.

18 (i) The amendments made by this section shall take
19 effect on the date of the enactment of this Act.

20 **SEC. 620. EFFECTIVE DATE.**

21 Except as otherwise provided in this title, the amend-
22 ments made by this title shall take effect as if included

1 in the provisions of the Taxpayer Relief Act of 1997 to
2 which they relate.

Passed the House of Representatives November 5,
1997.

Attest:

Clerk.