

108TH CONGRESS
2D SESSION

H. R. 3967

To amend the Internal Revenue Code of 1986 to credit the Highway Trust Fund with the full amount of fuel taxes, to combat fuel tax evasion, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2004

Mr. THOMAS introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to credit the Highway Trust Fund with the full amount of fuel taxes, to combat fuel tax evasion, 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,*

3 **SECTION 1. REFERENCE, ETC.**

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

1 (b) TABLE OF CONTENTS.—

TITLE I—RESTRUCTURING OF INCENTIVES FOR ALCOHOL
FUELS, ETC.

- Sec. 101. Reduced rates of tax on gasohol replaced with excise tax credit; repeal of other alcohol-based fuel incentives; etc.
 Sec. 102. Alcohol fuel subsidies borne by general fund.

TITLE II—REDUCTION OF FUEL TAX EVASION

- Sec. 201. Exemption from certain excise taxes for mobile machinery.
 Sec. 202. Taxation of aviation-grade kerosene.
 Sec. 203. Dye injection equipment.
 Sec. 204. Authority to inspect on-site records.
 Sec. 205. Registration of pipeline or vessel operators required for exemption of bulk transfers to registered terminals or refineries.
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TITLE III—OTHER EXCISE TAX PROVISIONS

- Sec. 301. Taxable fuel refunds for certain ultimate vendors.
 Sec. 302. Two-party exchanges.
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TITLE IV—PRIVATE ACTIVITY BONDS FOR MODERN
TRANSPORTATION

- Sec. 401. Treatment of bonds for certain transportation facilities as exempt facility bonds.

TITLE V—REVENUE PROVISIONS

Subtitle A—Leasing

- Sec. 501. Reform of tax treatment of certain leasing arrangements.
 Sec. 502. Limitation on deductions allocable to property used by governments or other tax-exempt entities.
 Sec. 503. Effective date.

Subtitle B—Charitable Giving

- Sec. 511. Donations of motor vehicles, boats, and aircraft.
 Sec. 512. Increased reporting for noncash charitable contributions.
 Sec. 513. Treatment of charitable contributions of patents and similar property.

Subtitle C—Tax Collection Contracts

- Sec. 521. Qualified tax collection contracts.

Subtitle D—Other Provisions

Sec. 531. Extension of amortization of intangibles to sports franchises.

Sec. 532. Class lives for utility grading costs.

Sec. 533. Modification of continuing levy on payments to Federal vendors.

1 **TITLE I—RESTRUCTURING OF**
 2 **INCENTIVES FOR ALCOHOL**
 3 **FUELS, ETC.**

4 **SEC. 101. REDUCED RATES OF TAX ON GASOHOL REPLACED**
 5 **WITH EXCISE TAX CREDIT; REPEAL OF**
 6 **OTHER ALCOHOL-BASED FUEL INCENTIVES;**
 7 **ETC.**

8 (a) EXCISE TAX CREDIT FOR ALCOHOL FUEL MIX-
 9 TURES.—

10 (1) IN GENERAL.—Subsection (f) of section
 11 6427 is amended to read as follows:

12 “(f) ALCOHOL FUEL MIXTURES.—

13 “(1) IN GENERAL.—The amount of credit
 14 which would (but for section 40(c)) be determined
 15 under section 40(a)(1) for any period—

16 “(A) shall, with respect to taxable events
 17 occurring during such period, be treated—

18 “(i) as a payment of the taxpayer’s li-
 19 ability for tax imposed by section 4081,
 20 and

21 “(ii) as received at the time of the
 22 taxable event, and

1 “(B) to the extent such amount of credit
2 exceeds such liability for such period, shall (ex-
3 cept as provided in subsection (k)) be paid sub-
4 ject to subsection (i)(3) by the Secretary with-
5 out interest.

6 “(2) SPECIAL RULES.—

7 “(A) ONLY CERTAIN ALCOHOL TAKEN
8 INTO ACCOUNT.—For purposes of paragraph
9 (1), section 40 shall be applied—

10 “(i) by not taking into account alcohol
11 with a proof of less than 190, and

12 “(ii) by treating as alcohol the alcohol
13 gallon equivalent of ethyl tertiary butyl
14 ether or other ethers produced from such
15 alcohol.

16 “(B) TREATMENT OF REFINERS.—For
17 purposes of paragraph (1), in the case of a mix-
18 ture—

19 “(i) the alcohol in which is described
20 in subparagraph (A)(ii), and

21 “(ii) which is produced by any person
22 at a refinery prior to any taxable event,
23 section 40 shall be applied by treating such per-
24 son as having sold such mixture at the time of

1 its removal from the refinery (and only at such
2 time) to another person for use as a fuel.

3 “(3) MIXTURES NOT USED AS FUEL.—Rules
4 similar to the rules of subparagraphs (A) and (D)
5 of section 40(d)(3) shall apply for purposes of this
6 subsection.

7 “(4) TERMINATION.—This section shall apply
8 only to periods to which section 40 applies, deter-
9 mined by substituting in section 40(e)—

10 “(A) ‘September 30, 2007’ for ‘December
11 31, 2007’, and

12 “(B) ‘October 1, 2007’ for ‘January 1,
13 2008’.”.

14 (2) REVISION OF RULES FOR PAYMENT OF
15 CREDIT.—Paragraph (3) of section 6427(i) is
16 amended to read as follows:

17 “(3) SPECIAL RULE FOR ALCOHOL MIXTURE
18 CREDIT.—

19 “(A) IN GENERAL.—A claim may be filed
20 under subsection (f)(1)(B) by any person for
21 any period—

22 “(i) for which \$200 or more is pay-
23 able under such subsection (f)(1)(B), and

24 “(ii) which is not less than 1 week.

1 “(B) PAYMENT OF CLAIM.—Notwith-
2 standing subsection (f)(1)(B), if the Secretary
3 has not paid pursuant to a claim filed under
4 this section within 45 days of the date of the
5 filing of such claim (20 days in the case of an
6 electronic claim), the claim shall be paid with
7 interest from such date determined by using the
8 overpayment rate and method under section
9 6621.

10 “(C) TIME FOR FILING CLAIM.—No claim
11 filed under this paragraph shall be allowed un-
12 less filed on or before the last day of the first
13 quarter following the earliest quarter included
14 in the claim.”.

15 (b) REPEAL OF OTHER INCENTIVES FOR FUEL MIX-
16 TURES.—

17 (1) Subsection (b) of section 4041 is amended
18 to read as follows:

19 “(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS
20 USE.—

21 “(1) IN GENERAL.—No tax shall be imposed by
22 subsection (a) or (d)(1) on liquids sold for use or
23 used in an off-highway business use.

24 “(2) TAX WHERE OTHER USE.—If a liquid on
25 which no tax was imposed by reason of paragraph

1 (1) is used otherwise than in an off-highway busi-
2 ness use, a tax shall be imposed by paragraph
3 (1)(B), (2)(B), or (3)(A)(ii) of subsection (a)
4 (whichever is appropriate) and by the corresponding
5 provision of subsection (d)(1) (if any).

6 “(3) OFF-HIGHWAY BUSINESS USE DEFINED.—
7 For purposes of this subsection, the term ‘off-high-
8 way business use’ has the meaning given to such
9 term by section 6421(e)(2); except that such term
10 shall not, for purposes of subsection (a)(1), include
11 use in a diesel-powered train.”.

12 (2) Section 4041(k) is hereby repealed.

13 (3) Section 4081(c) is hereby repealed.

14 (4) Section 4091(c) is hereby repealed.

15 (c) TRANSFERS TO HIGHWAY TRUST FUND.—Para-
16 graph (4) of section 9503(b) is amended by adding “or”
17 at the end of subparagraph (B), by striking the comma
18 at the end of subparagraph (C) and inserting a period,
19 and by striking subparagraphs (D), (E), and (F).

20 (d) CONFORMING AMENDMENTS.—

21 (1) Subsection (c) of section 40 is amended to
22 read as follows:

23 “(c) COORDINATION WITH EXCISE TAX BENE-
24 FITS.—The amount of the credit determined under this
25 section with respect to any alcohol shall, under regulations

1 prescribed by the Secretary, be properly reduced to take
2 into account the benefit provided with respect to such alco-
3 hol under section 6427(f).”.

4 (2) Subparagraph (B) of section 40(d)(4) is
5 amended by striking “under section 4041(k) or
6 4081(c)” and inserting “under section 6427(f)”.

7 (e) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided by para-
9 graph (2), the amendments made by this section
10 shall apply to fuel sold or used after September 30,
11 2004.

12 (2) SUBSECTION (c).—The amendments made
13 by subsection (c) shall apply to taxes imposed after
14 September 30, 2003.

15 **SEC. 102. ALCOHOL FUEL SUBSIDIES BORNE BY GENERAL**
16 **FUND.**

17 (a) TRANSFERS TO FUND.—Section 9503(b)(1) is
18 amended by adding at the end the following new flush sen-
19 tence:

20 “For purposes of this paragraph, the amount of
21 taxes received under section 4081 shall include any
22 amount treated as a payment under section
23 6427(f)(1)(A) and shall not be reduced by the
24 amount paid under section 6427(f)(1)(B).”.

1 (b) TRANSFERS FROM FUND.—Subparagraph (A) of
2 section 9503(c)(2) is amended by adding at the end the
3 following new sentence: “Clauses (i)(III) and (ii) shall not
4 apply to claims under section 6427(f)(1)(B).”

5 (c) EFFECTIVE DATE.—

6 (1) SUBSECTION (a).—The amendment made
7 by subsection (a) shall apply to taxes received after
8 September 30, 2004.

9 (2) SUBSECTION (b).—The amendment made
10 by subsection (b) shall apply to amounts paid after
11 September 30, 2004, and (to the extent related to
12 section 34 of the Internal Revenue Code of 1986) to
13 fuel used after such date.

14 **TITLE II—REDUCTION OF FUEL** 15 **TAX EVASION**

16 **SEC. 201. EXEMPTION FROM CERTAIN EXCISE TAXES FOR** 17 **MOBILE MACHINERY.**

18 (a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND
19 TRAILERS SOLD AT RETAIL.—

20 (1) IN GENERAL.—Section 4053 (relating to ex-
21 emptions) is amended by adding at the end the fol-
22 lowing new paragraph:

23 “(8) MOBILE MACHINERY.—Any vehicle which
24 consists of a chassis—

1 “(A) to which there has been permanently
2 mounted (by welding, bolting, riveting, or other
3 means) machinery or equipment to perform a
4 construction, manufacturing, processing, farm-
5 ing, mining, drilling, timbering, or similar oper-
6 ation if the operation of the machinery or
7 equipment is unrelated to transportation on or
8 off the public highways,

9 “(B) which has been specially designed to
10 serve only as a mobile carriage and mount (and
11 a power source, where applicable) for the par-
12 ticular machinery or equipment involved, wheth-
13 er or not such machinery or equipment is in op-
14 eration, and

15 “(C) which, by reason of such special de-
16 sign, could not, without substantial structural
17 modification, be used as a component of a vehi-
18 cle designed to perform a function of trans-
19 porting any load other than that particular ma-
20 chinery or equipment or similar machinery or
21 equipment requiring such a specially designed
22 chassis.”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by this subsection shall take effect on the day after
25 the date of the enactment of this Act.

1 (b) EXEMPTION FROM TAX ON USE OF CERTAIN VE-
 2 HICLES.—

3 (1) IN GENERAL.—Section 4483 (relating to ex-
 4 emptions) is amended by redesignating subsection
 5 (g) as subsection (h) and by inserting after sub-
 6 section (f) the following new subsection:

7 “(g) EXEMPTION FOR MOBILE MACHINERY.—No tax
 8 shall be imposed by section 4481 on the use of any vehicle
 9 described in section 4053(8).”.

10 (2) EFFECTIVE DATE.—The amendments made
 11 by this subsection shall take effect on the day after
 12 the date of the enactment of this Act.

13 (c) REFUND OF FUEL TAXES.—

14 (1) IN GENERAL.—Section 6421(e)(2) (defining
 15 off-highway business use) is amended by adding at
 16 the end the following new subparagraph:

17 “(C) USES IN MOBILE MACHINERY.—

18 “(i) IN GENERAL.—The term ‘off-
 19 highway business use’ shall include any use
 20 in a vehicle which meets the requirements
 21 described in clause (ii).

22 “(ii) REQUIREMENTS FOR MOBILE
 23 MACHINERY.—The requirements described
 24 in this clause are—

25 “(I) the design-based test, and

1 “(II) the use-based test.

2 “(iii) DESIGN-BASED TEST.—For pur-
3 poses of clause (ii)(I), the design-based
4 test is met if the vehicle consists of a chas-
5 sis—

6 “(I) to which there has been per-
7 manently mounted (by welding, bolt-
8 ing, riveting, or other means) machin-
9 ery or equipment to perform a con-
10 struction, manufacturing, processing,
11 farming, mining, drilling, timbering,
12 or similar operation if the operation of
13 the machinery or equipment is unre-
14 lated to transportation on or off the
15 public highways,

16 “(II) which has been specially de-
17 signed to serve only as a mobile car-
18 riage and mount (and a power source,
19 where applicable) for the particular
20 machinery or equipment involved,
21 whether or not such machinery or
22 equipment is in operation, and

23 “(III) which, by reason of such
24 special design, could not, without sub-
25 stantial structural modification, be

1 used as a component of a vehicle de-
2 signed to perform a function of trans-
3 porting any load other than that par-
4 ticular machinery or equipment or
5 similar machinery or equipment re-
6 quiring such a specially designed chas-
7 sis.

8 “(iv) USE-BASED TEST.—For pur-
9 poses of clause (ii)(II), the use-based test
10 is met if the use of the vehicle on public
11 highways was less than 7,500 miles during
12 the taxpayer’s taxable year.”.

13 (2) NO TAX-FREE SALES.—Subsection (b) of
14 section 4082, as amended by section 202, is amend-
15 ed by inserting before the period at the end “and
16 such term shall not include any use described in sec-
17 tion 6421(e)(2)(C).”.

18 (3) ANNUAL REFUND OF TAX PAID.—Section
19 6427(i)(2) (relating to exceptions) is amended by
20 adding at the end the following new subparagraph:

21 “(C) NONAPPLICATION OF PARAGRAPH.—
22 This paragraph shall not apply to any fuel used
23 solely in any off-highway business use described
24 in section 6421(e)(2)(C).”.

1 (4) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to taxable years begin-
3 ning after the date of the enactment of this Act.

4 **SEC. 202. TAXATION OF AVIATION-GRADE KEROSENE.**

5 (a) RATE OF TAX.—

6 (1) IN GENERAL.—Subparagraph (A) of section
7 4081(a)(2) is amended by striking “and” at the end
8 of clause (ii), by striking the period at the end of
9 clause (iii) and inserting “, and”, and by adding at
10 the end the following new clause:

11 “(iv) in the case of aviation-grade ker-
12 osene, 21.8 cents per gallon.”.

13 (2) COMMERCIAL AVIATION.—Paragraph (2) of
14 section 4081(a) is amended by adding at the end the
15 following new subparagraph:

16 “(C) TAXES IMPOSED ON FUEL USED IN
17 COMMERCIAL AVIATION.—In the case of avia-
18 tion-grade kerosene which is removed from any
19 refinery or terminal directly into the fuel tank
20 of an aircraft for use in commercial aviation,
21 the rate of tax under subparagraph (A)(iv) shall
22 be 4.3 cents per gallon.”.

23 (3) CERTAIN REFUELER TRUCKS, TANKERS,
24 AND TANK WAGONS TREATED AS TERMINAL.—Sub-

1 section (a) of section 4081 is amended by adding at
2 the end the following new paragraph:

3 “(3) CERTAIN REFUELER TRUCKS, TANKERS,
4 AND TANK WAGONS TREATED AS TERMINAL.—

5 “(A) IN GENERAL.—A refueler truck,
6 tanker, or tank wagon shall be treated as part
7 of the terminal referred to in paragraph (2)(C)
8 if—

9 “(i) such truck, tanker, or wagon
10 meets the requirements of subparagraph
11 (B) with respect to an airport, and

12 “(ii) no vehicle registered for highway
13 use is loaded with aviation-grade kerosene
14 at such terminal.

15 “(B) REQUIREMENTS.—A refueler truck,
16 tanker, or tank wagon meets the requirements
17 of this subparagraph with respect to an airport
18 if such truck, tanker, or wagon—

19 “(i) is loaded with aviation-grade ker-
20 osene at such terminal located within such
21 airport and delivers such kerosene only
22 into aircraft at such airport for use in
23 commercial aviation,

1 “(ii) has storage tanks, hose, and cou-
2 pling equipment designed and used for the
3 purposes of fueling aircraft,

4 “(iii) is not registered for highway
5 use, and

6 “(iv) is operated by—

7 “(I) the terminal operator of
8 such terminal, or

9 “(II) a person that makes a daily
10 accounting to such terminal operator
11 of each delivery of fuel from such
12 truck, tanker, or wagon.

13 “(C) REPORTING.—The Secretary shall re-
14 quire under section 4101(d) reporting by such
15 terminal operator of—

16 “(i) any information obtained under
17 subparagraph (B)(iv)(II), and

18 “(ii) any similar information main-
19 tained by such terminal operator with re-
20 spect to deliveries of fuel made by trucks,
21 tankers, or wagons operated by such ter-
22 minal operator.”.

23 (4) LIABILITY FOR TAX ON AVIATION-GRADE
24 KEROSENE USED IN COMMERCIAL AVIATION.—Sub-

1 section (a) of section 4081 is amended by adding at
2 the end the following new paragraph:

3 “(4) LIABILITY FOR TAX.—For purposes of
4 paragraph (2)(C), the person who uses the fuel for
5 commercial aviation shall pay the tax imposed under
6 such paragraph. For purposes of the preceding sen-
7 tence, fuel shall be treated as used when such fuel
8 is removed into the fuel tank.”.

9 (5) NONTAXABLE USES.—

10 (A) IN GENERAL.—Section 4082 is amend-
11 ed by redesignating subsections (e) and (f) as
12 subsections (f) and (g), respectively, and by in-
13 serting after subsection (d) the following new
14 subsection:

15 “(e) AVIATION-GRADE KEROSENE.—In the case of
16 aviation-grade kerosene which is exempt from the tax im-
17 posed by section 4041(c) (other than by reason of a prior
18 imposition of tax) and which is removed from any refinery
19 or terminal directly into the fuel tank of an aircraft, the
20 rate of tax under section 4081(a)(2)(A)(iv) shall be zero.
21 For purposes of the preceding sentence, rules similar to
22 the rules of section 4081(a)(3) shall apply.”.

23 (B) CONFORMING AMENDMENTS.—

1 (i) Subsection (b) of section 4082 is
2 amended by adding at the end the fol-
3 lowing new flush sentence:

4 “The term ‘nontaxable use’ does not include the use of
5 aviation-grade kerosene in an aircraft.”.

6 (ii) Section 4082(d) is amended by
7 striking paragraph (1) and by redesignig-
8 nating paragraphs (2) and (3) as para-
9 graphs (1) and (2), respectively.

10 (6) NONAIRCRAFT USE OF AVIATION-GRADE
11 KEROSENE.—

12 (A) IN GENERAL.—Subparagraph (B) of
13 section 4041(a)(1) is amended by adding at the
14 end the following new sentence: “This subpara-
15 graph shall not apply to aviation-grade ker-
16 osene.”.

17 (B) CONFORMING AMENDMENT.—The
18 heading for paragraph (1) of section 4041(a) is
19 amended by inserting “AND KEROSENE” after
20 “DIESEL FUEL”.

21 (b) COMMERCIAL AVIATION.—Section 4083 is
22 amended by redesignating subsections (b) and (c) as sub-
23 sections (c) and (d), respectively, and by inserting after
24 subsection (a) the following new subsection:

1 “(b) COMMERCIAL AVIATION.—For purposes of this
2 subpart, the term ‘commercial aviation’ means any use of
3 an aircraft in a business of transporting persons or prop-
4 erty for compensation or hire by air, unless properly allo-
5 cable to any transportation exempt from the taxes imposed
6 by sections 4261 and 4271 by reason of section 4281 or
7 4282 or by reason of section 4261(h).”.

8 (c) REFUNDS.—

9 (1) IN GENERAL.—Paragraph (4) of section
10 6427(l) is amended to read as follows:

11 “(4) REFUNDS FOR AVIATION-GRADE KER-
12 OSENE.—

13 “(A) NO REFUND OF CERTAIN TAXES ON
14 FUEL USED IN COMMERCIAL AVIATION.—In the
15 case of aviation-grade kerosene used in com-
16 mercial aviation (as defined in section 4083(b))
17 (other than supplies for vessels or aircraft with-
18 in the meaning of section 4221(d)(3)), para-
19 graph (1) shall not apply to so much of the tax
20 imposed by section 4081 as is attributable to—

21 “(i) the Leaking Underground Stor-
22 age Tank Trust Fund financing rate im-
23 posed by such section, and

1 “(ii) so much of the rate of tax speci-
2 fied in section 4081(a)(2)(A)(iv) as does
3 not exceed 4.3 cents per gallon.

4 “(B) PAYMENT TO ULTIMATE, REG-
5 ISTERED VENDOR.—With respect to aviation-
6 grade kerosene, if the ultimate purchaser of
7 such kerosene waives (at such time and in such
8 form and manner as the Secretary shall pre-
9 scribe) the right to payment under paragraph
10 (1) and assigns such right to the ultimate ven-
11 dor, then the Secretary shall pay the amount
12 which would be paid under paragraph (1) to
13 such ultimate vendor, but only if such ultimate
14 vendor—

15 “(i) is registered under section 4101,
16 and

17 “(ii) meets the requirements of sub-
18 paragraph (A), (B), or (D) of section
19 6416(a)(1).”.

20 (2) TIME FOR FILING CLAIMS.—Paragraph (4)
21 of section 6427(i) is amended by striking “sub-
22 section (l)(5)” and inserting “paragraph (4)(B) or
23 (5) of subsection (l)”.

1 (3) CONFORMING AMENDMENT.—Subparagraph
2 (B) of section 6427(l)(2) is amended to read as fol-
3 lows:

4 “(B) in the case of aviation-grade ker-
5 osene—

6 “(i) any use which is exempt from the
7 tax imposed by section 4041(c) other than
8 by reason of a prior imposition of tax, or

9 “(ii) any use in commercial aviation
10 (within the meaning of section 4083(b)).”.

11 (d) REPEAL OF PRIOR TAXATION OF AVIATION
12 FUEL.—

13 (1) IN GENERAL.—Part III of subchapter A of
14 chapter 32 is amended by striking subpart B and by
15 redesignating subpart C as subpart B.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Section 4041(c) is amended to read as
18 follows:

19 “(c) AVIATION-GRADE KEROSENE.—

20 “(1) IN GENERAL.—There is hereby imposed a
21 tax upon aviation-grade kerosene—

22 “(A) sold by any person to an owner, les-
23 see, or other operator of an aircraft for use in
24 such aircraft, or

1 “(B) used by any person in an aircraft un-
2 less there was a taxable sale of such fuel under
3 subparagraph (A).

4 “(2) EXEMPTION FOR PREVIOUSLY TAXED
5 FUEL.—No tax shall be imposed by this subsection
6 on the sale or use of any aviation-grade kerosene if
7 tax was imposed on such liquid under section 4081
8 and the tax thereon was not credited or refunded.

9 “(3) RATE OF TAX.—The rate of tax imposed
10 by this subsection shall be the rate of tax specified
11 in section 4081(a)(2)(A)(iv) which is in effect at the
12 time of such sale or use.”.

13 (B) Section 4041(d)(2) is amended by
14 striking “section 4091” and inserting “section
15 4081”.

16 (C) Section 4041 is amended by striking
17 subsection (e).

18 (D) Section 4041 is amended by striking
19 subsection (i).

20 (E) Sections 4101(a), 4103, 4221(a), and
21 6206 are each amended by striking “, 4081, or
22 4091” and inserting “or 4081”.

23 (F) Section 6416(b)(2) is amended by
24 striking “4091 or”.

1 (G) Section 6416(b)(3) is amended by
2 striking “or 4091” each place it appears.

3 (H) Section 6416(d) is amended by strik-
4 ing “or to the tax imposed by section 4091 in
5 the case of refunds described in section
6 4091(d)”.

7 (I) Section 6427(j)(1) is amended by strik-
8 ing “, 4081, and 4091” and inserting “and
9 4081”.

10 (J)(i) Section 6427(l)(1) is amended to
11 read as follows:

12 “(1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection and in subsection (k), if any
14 diesel fuel or kerosene on which tax has been im-
15 posed by section 4041 or 4081 is used by any person
16 in a nontaxable use, the Secretary shall pay (without
17 interest) to the ultimate purchaser of such fuel an
18 amount equal to the aggregate amount of tax im-
19 posed on such fuel under section 4041 or 4081, as
20 the case may be, reduced by any payment made to
21 the ultimate vendor under paragraph (4)(B).”.

22 (ii) Paragraph (5)(B) of section 6427(l) is
23 amended by striking “Paragraph (1)(A) shall
24 not apply to kerosene” and inserting “Para-

1 graph (1) shall not apply to kerosene (other
2 than aviation-grade kerosene)”.

3 (K) Subparagraph (B) of section
4 6724(d)(1) is amended by striking clause (xv)
5 and by redesignating the succeeding clauses ac-
6 cordingly.

7 (L) Paragraph (2) of section 6724(d) is
8 amended by striking subparagraph (W) and by
9 redesignating the succeeding subparagraphs ac-
10 cordingly.

11 (M) Paragraph (1) of section 9502(b) is
12 amended by adding “and” at the end of sub-
13 paragraph (B) and by striking subparagraphs
14 (C) and (D) and inserting the following new
15 subparagraph:

16 “(C) section 4081 with respect to aviation
17 gasoline and aviation-grade kerosene, and”.

18 (N) The last sentence of section 9502(b) is
19 amended to read as follows:

20 “There shall not be taken into account under paragraph
21 (1) so much of the taxes imposed by section 4081 as are
22 determined at the rate specified in section
23 4081(a)(2)(B).”.

24 (O) Subsection (b) of section 9508 is
25 amended by striking paragraph (3) and by re-

1 designating paragraphs (4) and (5) as para-
2 graphs (3) and (4), respectively.

3 (P) Section 9508(c)(2)(A) is amended by
4 striking “sections 4081 and 4091” and insert-
5 ing “section 4081”.

6 (Q) The table of subparts for part III of
7 subchapter A of chapter 32 is amended to read
8 as follows:

“Subpart A. Motor and aviation fuels.

“Subpart B. Special provisions applicable to fuels tax.”.

9 (R) The heading for subpart A of part III
10 of subchapter A of chapter 32 is amended to
11 read as follows:

12 **“Subpart A—Motor and Aviation Fuels”.**

13 (S) The heading for subpart B of part III
14 of subchapter A of chapter 32 is amended to
15 read as follows:

16 **“Subpart B—Special Provisions Applicable to Fuels**
17 **Tax”.**

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to aviation-grade kerosene re-
20 moved, entered, or sold after September 30, 2004.

21 (f) FLOOR STOCKS TAX.—

22 (1) IN GENERAL.—There is hereby imposed on
23 aviation-grade kerosene held on October 1, 2004, by
24 any person a tax equal to—

1 (A) the tax which would have been imposed
2 before such date on such kerosene had the
3 amendments made by this section been in effect
4 at all times before such date, reduced by

5 (B) the tax imposed before such date
6 under section 4091 of the Internal Revenue
7 Code of 1986, as in effect on the day before the
8 date of the enactment of this Act.

9 (2) LIABILITY FOR TAX AND METHOD OF PAY-
10 MENT.—

11 (A) LIABILITY FOR TAX.—The person
12 holding the kerosene on October 1, 2004, to
13 which the tax imposed by paragraph (1) applies
14 shall be liable for such tax.

15 (B) METHOD AND TIME FOR PAYMENT.—
16 The tax imposed by paragraph (1) shall be paid
17 at such time and in such manner as the Sec-
18 retary of the Treasury (or the Secretary's dele-
19 gate) shall prescribe, including the nonapplica-
20 tion of such tax on de minimus amounts of ker-
21 osene.

22 (3) TRANSFER OF FLOOR STOCK TAX REVE-
23 NUES TO TRUST FUNDS.—For purposes of deter-
24 mining the amount transferred to any trust fund,
25 the tax imposed by this subsection shall be treated

1 as imposed by section 4081 of the Internal Revenue
2 Code of 1986—

3 (A) at the Leaking Underground Storage
4 Tank Trust Fund financing rate under such
5 section to the extent of 0.1 cents per gallon,
6 and

7 (B) at the rate under section
8 4081(a)(2)(A)(iv) to the extent of the remain-
9 der.

10 (4) HELD BY A PERSON.—For purposes of this
11 section, kerosene shall be considered as held by a
12 person if title thereto has passed to such person
13 (whether or not delivery to the person has been
14 made).

15 (5) OTHER LAWS APPLICABLE.—All provisions
16 of law, including penalties, applicable with respect to
17 the tax imposed by section 4081 of such Code shall,
18 insofar as applicable and not inconsistent with the
19 provisions of this subsection, apply with respect to
20 the floor stock tax imposed by paragraph (1) to the
21 same extent as if such tax were imposed by such
22 section.

1 **SEC. 203. DYE INJECTION EQUIPMENT.**

2 (a) IN GENERAL.—Section 4082(a)(2) (relating to
3 exemptions for diesel fuel and kerosene) is amended by
4 inserting “by mechanical injection” after “indelibly dyed”.

5 (b) DYE INJECTOR SECURITY.—Not later than 180
6 days after the date of the enactment of this Act, the Sec-
7 retary of the Treasury shall issue regulations regarding
8 mechanical dye injection systems described in the amend-
9 ment made by subsection (a), and such regulations shall
10 include standards for making such systems tamper resist-
11 ant.

12 (c) PENALTY FOR TAMPERING WITH OR FAILING TO
13 MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL
14 DYE INJECTION SYSTEMS.—

15 (1) IN GENERAL.—Part I of subchapter B of
16 chapter 68 (relating to assessable penalties) is
17 amended by adding after section 6715 the following
18 new section:

19 **“SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN**
20 **SECURITY REQUIREMENTS FOR MECHAN-**
21 **ICAL DYE INJECTION SYSTEMS.**

22 “(a) IMPOSITION OF PENALTY—

23 “(1) TAMPERING.—If any person tampers with
24 a mechanical dye injection system used to indelibly
25 dye fuel for purposes of section 4082, such person
26 shall pay a penalty in addition to the tax (if any).

1 “(2) FAILURE TO MAINTAIN SECURITY RE-
2 QUIREMENTS.—If any operator of a mechanical dye
3 injection system used to indelibly dye fuel for pur-
4 poses of section 4082 fails to maintain the security
5 standards for such system as established by the Sec-
6 retary, then such operator shall pay a penalty in ad-
7 dition to the tax (if any).

8 “(b) AMOUNT OF PENALTY.—The amount of the
9 penalty under subsection (a) shall be—

10 “(1) for each violation described in paragraph
11 (1), the greater of—

12 “(A) \$25,000, or

13 “(B) \$10 for each gallon of fuel involved,
14 and

15 “(2) for each—

16 “(A) failure to maintain security standards
17 described in paragraph (2), \$1,000, and

18 “(B) failure to correct a violation described
19 in paragraph (2), \$1,000 per day for each day
20 after which such violation was discovered or
21 such person should have reasonably known of
22 such violation.

23 “(c) JOINT AND SEVERAL LIABILITY.—

24 “(1) IN GENERAL.—If a penalty is imposed
25 under this section on any business entity, each offi-

1 cer, employee, or agent of such entity or other con-
 2 tracting party who willfully participated in any act
 3 giving rise to such penalty shall be jointly and sever-
 4 ally liable with such entity for such penalty.

5 “(2) AFFILIATED GROUPS.—If a business entity
 6 described in paragraph (1) is part of an affiliated
 7 group (as defined in section 1504(a)), the parent
 8 corporation of such entity shall be jointly and sever-
 9 ally liable with such entity for the penalty imposed
 10 under this section.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
 12 tions for part I of subchapter B of chapter 68 is
 13 amended by adding after the item related to section
 14 6715 the following new item:

“Sec. 6715A. Tampering with or failing to maintain security re-
 quirements for mechanical dye injection systems.”.

15 (d) EFFECTIVE DATE.—The amendments made by
 16 subsections (a) and (c) shall take effect on the 180th day
 17 after the date on which the Secretary issues the regula-
 18 tions described in subsection (b).

19 **SEC. 204. AUTHORITY TO INSPECT ON-SITE RECORDS.**

20 (a) IN GENERAL.—Section 4083(d)(1)(A) (relating
 21 to administrative authority), as previously amended by
 22 this Act, is amended by striking “and” at the end of clause
 23 (i) and by inserting after clause (ii) the following new
 24 clause:

1 “(iii) inspecting any books and
2 records and any shipping papers pertaining
3 to such fuel, and”.

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

7 **SEC. 205. REGISTRATION OF PIPELINE OR VESSEL OPERA-**
8 **TORS REQUIRED FOR EXEMPTION OF BULK**
9 **TRANSFERS TO REGISTERED TERMINALS OR**
10 **REFINERIES.**

11 (a) IN GENERAL.—Section 4081(a)(1)(B) (relating
12 to exemption for bulk transfers to registered terminals or
13 refineries) is amended—

14 (1) by inserting “by pipeline or vessel” after
15 “transferred in bulk”, and

16 (2) by inserting “, the operator of such pipeline
17 or vessel,” after “the taxable fuel”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on October 1, 2004.

20 (c) PUBLICATION OF REGISTERED PERSONS.—Be-
21 ginning on July 1, 2004, the Secretary of the Treasury
22 (or the Secretary’s delegate) shall periodically publish a
23 current list of persons registered under section 4101 of
24 the Internal Revenue Code of 1986 who are required to
25 register under such section.

1 **SEC. 206. DISPLAY OF REGISTRATION.**

2 (a) IN GENERAL.—Subsection (a) of section 4101
3 (relating to registration) is amended—

4 (1) by striking “Every” and inserting the fol-
5 lowing:

6 “(1) IN GENERAL.—Every”, and

7 (2) by adding at the end the following new
8 paragraph:

9 “(2) DISPLAY OF REGISTRATION.—Every oper-
10 ator of a vessel required by the Secretary to register
11 under this section shall display proof of registration
12 through an electronic identification device prescribed
13 by the Secretary on each vessel used by such oper-
14 ator to transport any taxable fuel.”.

15 (b) CIVIL PENALTY FOR FAILURE TO DISPLAY REG-
16 ISTRATION.—

17 (1) IN GENERAL.—Part I of subchapter B of
18 chapter 68 (relating to assessable penalties) is
19 amended by inserting after section 6716 the fol-
20 lowing new section:

21 **“SEC. 6717. FAILURE TO DISPLAY TAX REGISTRATION ON**
22 **VESSELS.**

23 “(a) FAILURE TO DISPLAY REGISTRATION.—Every
24 operator of a vessel who fails to display proof of registra-
25 tion pursuant to section 4101(a)(2) shall pay a penalty
26 of \$500 for each such failure. With respect to any vessel,

1 only one penalty shall be imposed by this section during
2 any calendar month.

3 “(b) MULTIPLE VIOLATIONS.—In determining the
4 penalty under subsection (a) on any person, subsection (a)
5 shall be applied by increasing the amount in subsection
6 (a) by the product of such amount and the aggregate num-
7 ber of penalties (if any) imposed with respect to prior
8 months by this section on such person (or a related person
9 or any predecessor of such person or related person).

10 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
11 shall be imposed under this section with respect to any
12 failure if it is shown that such failure is due to reasonable
13 cause.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-
15 tions for part I of subchapter B of chapter 68 is
16 amended by inserting after the item relating to sec-
17 tion 6716 the following new item:

“Sec. 6717. Failure to display tax registration on vessels.”.

18 (c) EFFECTIVE DATES.—

19 (1) SUBSECTION (a).—The amendments made
20 by subsection (a) shall take effect on October 1,
21 2004.

22 (2) SUBSECTION (b).—The amendments made
23 by subsection (b) shall apply to penalties imposed
24 after September 30, 2004.

1 **SEC. 207. PENALTIES FOR FAILURE TO REGISTER AND**
 2 **FAILURE TO REPORT.**

3 (a) INCREASED PENALTY.—Subsection (a) of section
 4 7272 (relating to penalty for failure to register) is amend-
 5 ed by inserting “(\$10,000 in the case of a failure to reg-
 6 ister under section 4101)” after “\$50”.

7 (b) INCREASED CRIMINAL PENALTY.—Section 7232
 8 (relating to failure to register under section 4101, false
 9 representations of registration status, etc.) is amended by
 10 striking “\$5,000” and inserting “\$10,000”.

11 (c) ASSESSABLE PENALTY FOR FAILURE TO REG-
 12 ISTER.—

13 (1) IN GENERAL.—Part I of subchapter B of
 14 chapter 68 (relating to assessable penalties) is
 15 amended by inserting after section 6717 the fol-
 16 lowing new section:

17 **“SEC. 6718. FAILURE TO REGISTER.**

18 “(a) FAILURE TO REGISTER.—Every person who is
 19 required to register under section 4101 and fails to do
 20 so shall pay a penalty in addition to the tax (if any).

21 “(b) AMOUNT OF PENALTY.—The amount of the
 22 penalty under subsection (a) shall be—

23 “(1) \$10,000 for each initial failure to register,
 24 and

25 “(2) \$1,000 for each day thereafter such person
 26 fails to register.

1 “(c) REASONABLE CAUSE EXCEPTION.—No penalty
2 shall be imposed under this section with respect to any
3 failure if it is shown that such failure is due to reasonable
4 cause.”.

5 (2) CLERICAL AMENDMENT.—The table of sec-
6 tions for part I of subchapter B of chapter 68 is
7 amended by inserting after the item relating to sec-
8 tion 6717 the following new item:

 “Sec. 6718. Failure to register.”.

9 (d) ASSESSABLE PENALTY FOR FAILURE TO RE-
10 PORT.—

11 (1) IN GENERAL.—Part II of subchapter B of
12 chapter 68 (relating to assessable penalties) is
13 amended by adding at the end the following new sec-
14 tion:

15 **“SEC. 6725. FAILURE TO REPORT INFORMATION UNDER**
16 **SECTION 4101.**

17 “(a) IN GENERAL.—In the case of each failure de-
18 scribed in subsection (b) by any person with respect to
19 a vessel or facility, such person shall pay a penalty of
20 \$10,000 in addition to the tax (if any).

21 “(b) FAILURES SUBJECT TO PENALTY.—For pur-
22 poses of subsection (a), the failures described in this sub-
23 section are—

1 **“SEC. 4104. COLLECTION FROM CUSTOMS BOND WHERE IM-**
2 **PORTER NOT REGISTERED.**

3 “(a) IN GENERAL.—The importer of record shall be
4 jointly and severally liable for the tax imposed by section
5 4081(a)(1)(A)(iii) if, under regulations prescribed by the
6 Secretary, any other person that is not a person who is
7 registered under section 4101 is liable for such tax.

8 “(b) COLLECTION FROM CUSTOMS BOND.—If any
9 tax for which any importer of record is liable under sub-
10 section (a), or for which any importer of record that is
11 not a person registered under section 4101 is otherwise
12 liable, is not paid on or before the last date prescribed
13 for payment, the Secretary may collect such tax from the
14 Customs bond posted with respect to the importation of
15 the taxable fuel to which the tax relates. For purposes of
16 determining the jurisdiction of any court of the United
17 States or any agency of the United States, any action by
18 the Secretary described in the preceding sentence shall be
19 treated as an action to collect the tax from a bond de-
20 scribed in section 4101(b)(1) and not as an action to col-
21 lect from a bond relating to the importation of merchan-
22 dise.”.

23 (b) CONFORMING AMENDMENT.—The table of sec-
24 tions for subpart C of part III of subchapter A of chapter
25 31 is amended by adding after the item related to section
26 4103 the following new item:

“Sec. 4104. Collection from Customs bond where importer not registered.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to fuel entered after
3 September 30, 2004.

4 **SEC. 209. MODIFICATIONS OF TAX ON USE OF CERTAIN VE-**
5 **HICLES.**

6 (a) PRORATION OF TAX WHERE VEHICLE SOLD.—

7 (1) IN GENERAL.—Paragraph (2) of section
8 4481(c) (relating to where vehicle destroyed or sto-
9 len) is amended by striking “destroyed or stolen”
10 both places it appears and inserting “sold, de-
11 stroyed, or stolen”.

12 (2) CONFORMING AMENDMENT.—The heading
13 for section 4481(c)(2) is amended by striking “DE-
14 STROYED OR STOLEN” and inserting “SOLD, DE-
15 STROYED, OR STOLEN”.

16 (b) REPEAL OF INSTALLMENT PAYMENT.—

17 (1) Section 6156 (relating to installment pay-
18 ment of tax on use of highway motor vehicles) is re-
19 pealed.

20 (2) The table of sections for subchapter A of
21 chapter 62 is amended by striking the item relating
22 to section 6156.

1 (c) ELECTRONIC FILING.—Section 4481 is amended
 2 by redesignating subsection (e) as subsection (f) and by
 3 inserting after subsection (d) the following new subsection:

4 “(e) ELECTRONIC FILING.—Any taxpayer who files
 5 a return under this section with respect to 25 or more
 6 vehicles for any taxable period shall file such return elec-
 7 tronically.”.

8 (d) REPEAL OF REDUCTION IN TAX FOR CERTAIN
 9 TRUCKS.—Section 4483 is amended by striking subsection
 10 (f).

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

14 **SEC. 210. MODIFICATION OF ULTIMATE VENDOR REFUND**
 15 **CLAIMS WITH RESPECT TO FARMING.**

16 (a) IN GENERAL.—

17 (1) REFUNDS.—Section 6427(l) is amended by
 18 adding at the end the following new paragraph:

19 “(6) REGISTERED VENDORS PERMITTED TO AD-
 20 MINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL
 21 FUEL AND KEROSENE SOLD TO FARMERS.—

22 “(A) IN GENERAL.—In the case of diesel
 23 fuel or kerosene used on a farm for farming
 24 purposes (within the meaning of section
 25 6420(c)), paragraph (1) shall not apply to the

1 aggregate amount of such diesel fuel or ker-
2 osene if such amount does not exceed 250 gal-
3 lons (as determined under subsection
4 (i)(5)(A)(iii)).

5 “(B) PAYMENT TO ULTIMATE VENDOR.—

6 The amount which would (but for subparagraph
7 (A)) have been paid under paragraph (1) with
8 respect to any fuel shall be paid to the ultimate
9 vendor of such fuel, if such vendor—

10 “(i) is registered under section 4101,

11 and

12 “(ii) meets the requirements of sub-
13 paragraph (A), (B), or (D) of section
14 6416(a)(1).”.

15 (2) FILING OF CLAIMS.—Section 6427(i) is

16 amended by inserting at the end the following new
17 paragraph:

18 “(5) SPECIAL RULE FOR VENDOR REFUNDS
19 WITH RESPECT TO FARMERS.—

20 “(A) IN GENERAL.—A claim may be filed

21 under subsection (1)(6) by any person with re-
22 spect to fuel sold by such person for any pe-
23 riod—

1 “(i) for which \$200 or more (\$100 or
2 more in the case of kerosene) is payable
3 under subsection (l)(6),

4 “(ii) which is not less than 1 week,
5 and

6 “(iii) which is for not more than 250
7 gallons for each farmer for which there is
8 a claim.

9 Notwithstanding subsection (l)(1), paragraph
10 (3)(B) shall apply to claims filed under the pre-
11 ceding sentence.

12 “(B) TIME FOR FILING CLAIM.—No claim
13 filed under this paragraph shall be allowed un-
14 less filed on or before the last day of the first
15 quarter following the earliest quarter included
16 in the claim.”.

17 (3) CONFORMING AMENDMENTS.—

18 (A) Section 6427(l)(5)(A) is amended to
19 read as follows:

20 “(A) IN GENERAL.—Paragraph (1) shall
21 not apply to diesel fuel or kerosene used by a
22 State or local government.”.

23 (B) The heading for section 6427(l)(5) is
24 amended by striking “FARMERS AND”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to fuels sold for nontaxable use
3 after the date of the enactment of this Act.

4 **SEC. 211. DEDICATION OF REVENUES FROM CERTAIN PEN-**
5 **ALTIES TO THE HIGHWAY TRUST FUND.**

6 (a) IN GENERAL.—Subsection (b) of section 9503
7 (relating to transfer to Highway Trust Fund of amounts
8 equivalent to certain taxes) is amended by redesignating
9 paragraph (5) as paragraph (6) and inserting after para-
10 graph (4) the following new paragraph:

11 “(5) CERTAIN PENALTIES.—There are hereby
12 appropriated to the Highway Trust Fund amounts
13 equivalent to the penalties paid under sections 6715,
14 6715A, 6717, 6718, 6725, 7232, and 7272 (but only
15 with regard to penalties under such section related
16 to failure to register under section 4101).”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) The heading of subsection (b) of section
19 9503 is amended by inserting “AND PENALTIES”
20 after “TAXES”.

21 (2) The heading of paragraph (1) of section
22 9503(b) is amended by striking “IN GENERAL” and
23 inserting “CERTAIN TAXES”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to penalties assessed after October
3 1, 2004.

4 **TITLE III—OTHER EXCISE TAX**
5 **PROVISIONS**

6 **SEC. 301. TAXABLE FUEL REFUNDS FOR CERTAIN ULTI-**
7 **MATE VENDORS.**

8 (a) IN GENERAL.—Paragraph (4) of section 6416(a)
9 (relating to abatements, credits, and refunds) is amended
10 to read as follows:

11 “(4) REGISTERED ULTIMATE VENDOR TO AD-
12 MINISTER CREDITS AND REFUNDS OF GASOLINE
13 TAX.—

14 “(A) IN GENERAL.—For purposes of this
15 subsection, if an ultimate vendor purchases any
16 gasoline on which tax imposed by section 4081
17 has been paid and sells such gasoline to an ul-
18 timate purchaser described in subparagraph (C)
19 or (D) of subsection (b)(2) (and such gasoline
20 is for a use described in such subparagraph),
21 such ultimate vendor shall be treated as the
22 person (and the only person) who paid such tax,
23 but only if such ultimate vendor is registered
24 under section 4101. For purposes of this sub-
25 paragraph, if the sale of gasoline is made by

1 means of a credit card, the person extending
2 the credit to the ultimate purchaser shall be
3 deemed to be the ultimate vendor.

4 “(B) TIMING OF CLAIMS.—The procedure
5 and timing of any claim under subparagraph
6 (A) shall be the same as for claims under sec-
7 tion 6427(i)(4), except that the rules of section
8 6427(i)(3)(B) regarding electronic claims shall
9 not apply unless the ultimate vendor has cer-
10 tified to the Secretary for the most recent quar-
11 ter of the taxable year that all ultimate pur-
12 chasers of the vendor covered by such claim are
13 certified and entitled to a refund under sub-
14 paragraph (C) or (D) of subsection (b)(2).”.

15 (b) CREDIT CARD PURCHASES OF DIESEL FUEL OR
16 KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Sec-
17 tion 6427(l)(5)(C) (relating to nontaxable uses of diesel
18 fuel, kerosene, and aviation fuel) is amended by adding
19 at the end the following new sentence: “For purposes of
20 this subparagraph, if the sale of diesel fuel or kerosene
21 is made by means of a credit card, the person extending
22 the credit to the ultimate purchaser shall be deemed to
23 be the ultimate vendor.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on October 1, 2004.

1 **SEC. 302. TWO-PARTY EXCHANGES.**

2 (a) IN GENERAL.—Subpart C of part III of sub-
3 chapter A of chapter 32 is amended by adding after sec-
4 tion 4104 the following new section:

5 **“SEC. 4105. TWO-PARTY EXCHANGES.**

6 “(a) IN GENERAL.—In a two-party exchange, the de-
7 livering person shall not be liable for the tax imposed
8 under section 4081(a)(1)(A)(ii).

9 “(b) TWO-PARTY EXCHANGE.—The term ‘two-party
10 exchange’ means a transaction, other than a sale, in which
11 taxable fuel is transferred from a delivering person reg-
12 istered under section 4101 as a taxable fuel registrant fuel
13 to a receiving person who is so registered where all of the
14 following occur:

15 “(1) The transaction includes a transfer from
16 the delivering person, who holds the inventory posi-
17 tion for taxable fuel in the terminal as reflected in
18 the records of the terminal operator.

19 “(2) The exchange transaction occurs before or
20 contemporaneous with completion of removal across
21 the rack from the terminal by the receiving person.

22 “(3) The terminal operator in its books and
23 records treats the receiving person as the person
24 that removes the taxable fuel across the terminal
25 rack for purposes of reporting the transaction to the
26 Secretary.

1 “(4) The transaction is the subject of a written
2 contract.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-
4 tions for subpart C of part III of subchapter A of chapter
5 32 is amended by adding after the item relating to section
6 4104 the following new item:

 “Sec. 4105. Two-party exchanges.”.

7 (c) EFFECTIVE DATE.—The amendment made by
8 this section shall take effect on the date of the enactment
9 of this Act.

10 **SEC. 303. SIMPLIFICATION OF TAX ON TIRES.**

11 (a) IN GENERAL.—Subsection (a) of section 4071 is
12 amended to read as follows:

13 “(a) IMPOSITION AND RATE OF TAX.—There is here-
14 by imposed on taxable tires sold by the manufacturer, pro-
15 ducer, or importer thereof a tax at the rate of 9.4 cents
16 (4.7 cents in the case of a biasply tire) for each 10 pounds
17 so much of the maximum rated load capacity thereof as
18 exceeds 3,500 pounds.”

19 (b) TAXABLE TIRE.—Section 4072 is amended by re-
20 designating subsections (a) and (b) as subsections (b) and
21 (c), respectively, and by inserting before subsection (b) (as
22 so redesignated) the following new subsection:

23 “(a) TAXABLE TIRE.—For purposes of this chapter,
24 the term ‘taxable tire’ means any tire of the type used
25 on highway vehicles if wholly or in part made of rubber

1 and if marked pursuant to Federal regulations for high-
2 way use.”.

3 (c) EXEMPTION FOR TIRES SOLD TO DEPARTMENT
4 OF DEFENSE.—Section 4073 is amended to read as fol-
5 lows:

6 **“SEC. 4073. EXEMPTIONS.**

7 “The tax imposed by section 4071 shall not apply to
8 tires sold for the exclusive use of the Department of De-
9 fense or the Coast Guard.”.

10 (d) CONFORMING AMENDMENTS.—

11 (1) Section 4071 is amended by striking sub-
12 section (c) and by moving subsection (e) after sub-
13 section (b) and redesignating subsection (e) as sub-
14 section (c).

15 (2) The item relating to section 4073 in the
16 table of sections for part II of subchapter A of chap-
17 ter 32 is amended to read as follows:

“Sec. 4073. Exemptions.”.

18 (e) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to sales in calendar years begin-
20 ning more than 30 days after the date of the enactment
21 of this Act.

1 **TITLE IV—PRIVATE ACTIVITY**
2 **BONDS FOR MODERN TRANS-**
3 **PORTATION**

4 **SEC. 401. TREATMENT OF BONDS FOR CERTAIN TRANSPOR-**
5 **TATION FACILITIES AS EXEMPT FACILITY**
6 **BONDS.**

7 (a) TREATMENT AS EXEMPT FACILITY BONDS.—

8 Subsection (a) of section 142 (relating to exempt facility
9 bond) is amended by striking “or” at the end of paragraph
10 (12), by striking the period at the end of paragraph (13)
11 and inserting “, or”, and by adding at the end the fol-
12 lowing new paragraph:

13 “(14) qualified transportation facilities.”.

14 (b) QUALIFIED TRANSPORTATION FACILITIES.—Sec-
15 tion 142 is amended by adding at the end the following
16 new subsection:

17 “(1) QUALIFIED TRANSPORTATION FACILITIES.—

18 “(1) IN GENERAL.—For purposes of subsection
19 (a)(14), the term ‘qualified transportation facilities’
20 means—

21 “(A) any surface transportation project
22 which is eligible to receive Federal assistance
23 under title 23, United States Code (as in effect
24 on the date of the enactment of this sub-
25 section),

1 “(B) any project for an international
2 bridge or tunnel—

3 “(i) for which an international entity
4 authorized under Federal or State law is
5 responsible, and

6 “(ii) which is eligible to receive Fed-
7 eral assistance under title 23, United
8 States Code (as in effect on the date of the
9 enactment of this subsection),

10 “(C) any facility for the transfer of freight
11 from truck to rail or rail to truck (including
12 any temporary storage facility directly related
13 to such transfer) which is eligible to receive
14 Federal assistance under—

15 “(i) title 23, United States Code (as
16 in effect on the date of the enactment of
17 this subsection), or

18 “(ii) title 49, United States Code (as
19 in effect on the date of the enactment of
20 this subsection), and

21 “(D) any facility described in subsection
22 (a)(3) (as modified and limited by subsections
23 (b) and (c)).

24 “(2) LIMITATION ON AGGREGATE FACE
25 AMOUNT OF TAX-EXEMPT FINANCING.—

1 “(A) IN GENERAL.—An issue shall not be
2 treated as an issue described in subsection
3 (a)(14) unless—

4 “(i) the Secretary has allocated an
5 amount to such issue under this para-
6 graph, and

7 “(ii) the aggregate face amount of
8 bonds issued pursuant to such issue does
9 not exceed such amount.

10 “(B) ALLOCATION.—The Secretary of
11 Transportation, after consultation with the Sec-
12 retary, may allocate amounts to issues under
13 this paragraph in such manner as the Secretary
14 of Transportation (after so consulting) deter-
15 mines appropriate, except that the aggregate
16 amount so allocated shall not exceed
17 \$15,000,000,000.

18 “(C) REFUNDING BONDS.—Subparagraph
19 (A) shall not apply with respect to any bond the
20 proceeds of which are used exclusively to refund
21 a bond issued pursuant to subsection (a)(14)
22 (or a bond which is a part of a series of
23 refundings of a bond so issued) if the amount
24 of the refunding bond does not exceed the out-
25 standing amount of the refunded bond.”.

1 (c) EXEMPTION FROM GENERAL STATE VOLUME
 2 CAPS.—Paragraph (3) of section 146(g) (relating to ex-
 3 ception for certain bonds) is amended—

4 (1) by striking “or (13)” and inserting “(13),
 5 or (14)”, and

6 (2) by striking “and qualified public educational
 7 facilities” and inserting “qualified public educational
 8 facilities, and qualified transportation facilities”.

9 (d) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to bonds issued after the date of
 11 the enactment of this Act.

12 **TITLE V—REVENUE PROVISIONS**

13 **Subtitle A—Leasing**

14 **SEC. 501. REFORM OF TAX TREATMENT OF CERTAIN LEAS-** 15 **ING ARRANGEMENTS.**

16 (a) CLARIFICATION OF RECOVERY PERIOD FOR TAX-
 17 EXEMPT USE PROPERTY SUBJECT TO LEASE.—Subpara-
 18 graph (A) of section 168(g)(3) (relating to special rules
 19 for determining class life) is amended by inserting “(not-
 20 withstanding any other subparagraph of this paragraph)”
 21 after “shall”.

22 (b) LIMITATION ON DEPRECIATION PERIOD FOR
 23 SOFTWARE LEASED TO TAX-EXEMPT ENTITY.—Para-
 24 graph (1) of section 167(f) is amended by adding at the
 25 end the following new subparagraph:

1 “(C) TAX-EXEMPT USE PROPERTY SUB-
2 JECT TO LEASE.—In the case of computer soft-
3 ware which would be tax-exempt use property
4 as defined in subsection (h) of section 168 if
5 such section applied to computer software, the
6 useful life under subparagraph (A) shall not be
7 less than 125 percent of the lease term (within
8 the meaning of section 168(i)(3)).”.

9 (c) LEASE TERM TO INCLUDE RELATED SERVICE
10 CONTRACTS.—Subparagraph (A) of section 168(i)(3) (re-
11 lating to lease term) is amended by striking “and” at the
12 end of clause (i), by redesignating clause (ii) as clause
13 (iii), and by inserting after clause (i) the following new
14 clause:

15 “(ii) the term of a lease shall include
16 the term of any service contract or similar
17 arrangement (whether or not treated as a
18 lease under section 7701(e))—

19 “(I) which is part of the same
20 transaction (or series of related trans-
21 actions) which includes the lease, and

22 “(II) which is with respect to the
23 property subject to the lease or sub-
24 stantially similar property, and”.

1 **SEC. 502. LIMITATION ON DEDUCTIONS ALLOCABLE TO**
2 **PROPERTY USED BY GOVERNMENTS OR**
3 **OTHER TAX-EXEMPT ENTITIES.**

4 (a) IN GENERAL.—Subpart C of part II of sub-
5 chapter E of chapter 1 (relating to taxable year for which
6 deductions taken) is amended by adding at the end the
7 following new section:

8 **“SEC. 470. LIMITATION ON DEDUCTIONS ALLOCABLE TO**
9 **PROPERTY USED BY GOVERNMENTS OR**
10 **OTHER TAX-EXEMPT ENTITIES.**

11 “(a) LIMITATION ON LOSSES.—Except as otherwise
12 provided in this section, a tax-exempt use loss for any tax-
13 able year shall not be allowed.

14 “(b) DISALLOWED LOSS CARRIED TO NEXT YEAR.—
15 Any tax-exempt use loss with respect to any tax-exempt
16 use property which is disallowed under subsection (a) for
17 any taxable year shall be treated as a deduction with re-
18 spect to such property in the next taxable year.

19 “(c) DEFINITIONS.—For purposes of this section—

20 “(1) TAX-EXEMPT USE LOSS.—The term ‘tax-
21 exempt use loss’ means, with respect to any taxable
22 year, the amount (if any) by which—

23 “(A) the sum of—

24 “(i) the aggregate deductions (other
25 than interest) directly allocable to a tax-ex-
26 empt use property, plus

1 “(ii) the aggregate deductions for in-
2 terest properly allocable to such property,
3 exceed

4 “(B) the aggregate income from such
5 property.

6 “(2) TAX-EXEMPT USE PROPERTY.—The term
7 ‘tax-exempt use property’ has the meaning given to
8 such term by section 168(h) (without regard to
9 paragraphs (1)(C) and (3) thereof and determined
10 as if property described in section 167(f)(1)(B) were
11 tangible property).

12 “(d) EXCEPTION FOR CERTAIN LEASES.—This sec-
13 tion shall not apply to any lease of property which meets
14 the requirements of all of the following paragraphs:

15 “(1) PROPERTY NOT FINANCED WITH TAX-EX-
16 EMPT BONDS.—A lease of property meets the re-
17 quirements of this paragraph if no part of the prop-
18 erty was (at any time) financed (directly or indi-
19 rectly) from the proceeds of an obligation the inter-
20 est on which is exempt from tax under section
21 103(a) and which (or any refunding bond of which)
22 is outstanding when the lease is entered into. The
23 Secretary shall by regulations provide a de minimis
24 exception from the preceding sentence.

25 “(2) AVAILABILITY OF FUNDS.—

1 “(A) IN GENERAL.—A lease of property
2 meets the requirements of this paragraph if (at
3 all times during the lease term) not more than
4 an allowable amount of funds are—

5 “(i) subject to any arrangement re-
6 ferred to in subparagraph (B), or

7 “(ii) set aside or expected to be set
8 aside,

9 to or for the benefit of the lessor or any lender,
10 or to or for the benefit of the lessee to satisfy
11 the lessee’s obligations or options under the
12 lease. For purposes of clause (ii), funds shall be
13 treated as set aside or expected to be set aside
14 if a reasonable person would conclude, based on
15 the facts and circumstances, that such funds
16 are set aside or expected to be set aside.

17 “(B) ARRANGEMENTS.—The arrangements
18 referred to in this subparagraph include a de-
19 feasance arrangement, a loan by the lessee to
20 the lessor or any lender, a deposit arrangement,
21 a letter of credit collateralized with cash or cash
22 equivalents, a payment undertaking agreement,
23 a lease prepayment, a sinking fund arrange-
24 ment, and any similar arrangement (whether or
25 not such arrangement provides credit support).

1 “(C) ALLOWABLE AMOUNT.—

2 “(i) IN GENERAL.—Except as other-
3 wise provided in this subparagraph, the
4 term ‘allowable amount’ means an amount
5 equal to 20 percent of the lessor’s adjusted
6 basis in the property at the time the lease
7 is entered into.

8 “(ii) HIGHER AMOUNT PERMITTED IN
9 CERTAIN CASES.—To the extent provided
10 in regulations, a higher percentage shall be
11 permitted under clause (i) where necessary
12 because of the credit-worthiness of the les-
13 see. In no event may such regulations per-
14 mit a percentage of more than 50 percent.

15 “(iii) OPTION TO PURCHASE.—If
16 under the lease the lessee has the option to
17 purchase the property for a fixed price or
18 for other than the fair market value of the
19 property (determined at the time of exer-
20 cise), the allowable amount at the time
21 such option may be exercised may not ex-
22 ceed 50 percent of the price at which such
23 option may be exercised.

24 “(iv) NO ALLOWABLE AMOUNT FOR
25 CERTAIN ARRANGEMENTS.—The allowable

1 amount shall be zero with respect to any
2 arrangement which involves—

3 “(I) a loan from the lessee to the
4 lessor or a lender,

5 “(II) any deposit, letter of credit,
6 or payment undertaking agreement
7 involving a lender, or

8 “(III) in the case of an arrange-
9 ment which involves a lender, any
10 credit support made available to the
11 lessor in which any such lender does
12 not have a claim that is senior to the
13 lessor.

14 For purposes of subclause (I), the term
15 ‘loan’ shall not include any amount treated
16 as a loan under section 467 with respect to
17 a section 467 rental agreement.

18 “(3) LESSOR MUST MAKE SUBSTANTIAL EQUITY
19 INVESTMENT.—A lease of property meets the re-
20 quirements of this paragraph if—

21 “(A) the lessor—

22 “(i) has at the time the lease is en-
23 tered into an unconditional at-risk equity
24 investment (as determined by the Sec-
25 retary) in the property of at least 20 per-

1 cent of the lessor's adjusted basis in the
2 property as of that time, and

3 “(ii) maintains such investment
4 throughout the term of the lease, and

5 “(B) the fair market value of the property
6 at the end of the lease term is reasonably ex-
7 pected to be equal to at least 20 percent of such
8 basis.

9 Subparagraphs (A)(ii) and (B) shall not apply to a
10 short-term lease (as defined in paragraphs (1)(C)
11 and (3) of section 168(h)). For purposes of subpara-
12 graph (B), the lessor's at-risk position reflected in
13 the fair market value of the property at the end of
14 the lease term shall be considered to be reduced to
15 the extent of any potential payment from an ar-
16 rangement described in paragraph (4).

17 “(4) LESSEE MAY NOT BEAR MORE THAN MINI-
18 MAL RISK OF LOSS.—

19 “(A) IN GENERAL.—A lease of property
20 meets the requirements of this paragraph if
21 there is no arrangement under which more than
22 a minimal risk of loss (as determined under
23 regulations) in the value of the property is
24 borne by the lessee.

1 “(B) CERTAIN ARRANGEMENTS FAIL RE-
2 QUIREMENT.—Except as provided in regula-
3 tions, the property does not meet the require-
4 ments of this paragraph if there is any arrange-
5 ment under which the lessee bears—

6 “(i) any portion of the loss that would
7 occur if the fair market value of the leased
8 property at the time the lease is termi-
9 nated were 25 percent less than its reason-
10 ably expected fair market value at the end
11 of the lease term, or

12 “(ii) more than 50 percent of the loss
13 that would occur if the fair market value
14 of the leased property at the time the lease
15 is terminated were zero.

16 “(e) SPECIAL RULES.—

17 “(1) TREATMENT OF FORMER TAX-EXEMPT
18 USE PROPERTY.—

19 “(A) IN GENERAL.—In the case of any
20 former tax-exempt use property—

21 “(i) any deduction allowable under
22 subsection (b) with respect to such prop-
23 erty for any taxable year shall be allowed
24 only to the extent of any net income (with-

1 out regard to such deduction) from such
2 property for such taxable year, and

3 “(ii) any portion of such unused de-
4 duction remaining after application of
5 clause (i) shall be treated as a deduction
6 allowable under subsection (b) with respect
7 to such property in the next taxable year.

8 “(B) FORMER TAX-EXEMPT USE PROP-
9 ERTY.—For purposes of this subsection, the
10 term ‘former tax-exempt use property’ means
11 any property which—

12 “(i) is not tax-exempt use property for
13 the taxable year, but

14 “(ii) was tax-exempt use property for
15 any prior taxable year.

16 “(2) DISPOSITION OF ENTIRE INTEREST IN
17 PROPERTY.—If during the taxable year a taxpayer
18 disposes of the taxpayer’s entire interest in tax-ex-
19 empt use property (or former tax-exempt use prop-
20 erty), rules similar to the rules of section 469(g)
21 shall apply for purposes of this section.

22 “(3) COORDINATION WITH SECTION 469.—This
23 section shall be applied before the application of sec-
24 tion 469.

1 “(f) OTHER DEFINITIONS.—For purposes of this sec-
2 tion—

3 “(1) RELATED PARTIES.—The terms ‘lessor’,
4 ‘lessee’, and ‘lender’ each include any related party
5 (within the meaning of section 197(f)(9)(C)(i)).

6 “(2) LEASE TERM.—The term ‘lease term’ has
7 the meaning given to such term by section 168(i)(3).

8 “(3) LENDER.—The term ‘lender’ means, with
9 respect to any lease, a person that makes a loan to
10 the lessor which is secured (or economically similar
11 to being secured) by the lease or the leased property.

12 “(4) LOAN.—The term ‘loan’ includes any simi-
13 lar arrangement.

14 “(g) REGULATIONS.—The Secretary shall prescribe
15 such regulations as may be necessary or appropriate to
16 carry out the provisions of this section, including regula-
17 tion which—

18 “(1) allow in appropriate cases the aggregation
19 of property subject to the same lease, and

20 “(2) provide for the determination of the alloca-
21 tion of interest expense for purposes of this sec-
22 tion.”.

23 (b) CONFORMING AMENDMENT.—The table of sec-
24 tions for subpart C of part II of subchapter E of chapter
25 1 is amended by adding at the end the following new item:

“Sec. 470. Limitation on deductions allocable to property used by governments or other tax-exempt entities.”.

1 **SEC. 503. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except as provided by subsection
3 (b), the amendments made by this subtitle shall apply to
4 leases entered into after February 11, 2004.

5 (b) EXCEPTION.—

6 (1) IN GENERAL.—The amendments made by
7 this subtitle shall not apply to qualified transpor-
8 tation property.

9 (2) QUALIFIED TRANSPORTATION PROPERTY.—
10 For purposes of paragraph (1), the term “qualified
11 transportation property” means domestic property
12 subject to a lease with respect to which a formal ap-
13 plication—

14 (A) was submitted for approval to the Fed-
15 eral Transit Administration (an agency of the
16 Department of Transportation) after June 30,
17 2003, and before February 12, 2004,

18 (B) is approved by the Federal Transit Ad-
19 ministration before January 1, 2005, and

20 (C) includes a description of such property
21 and the value of such property.

1 **Subtitle B—Charitable Giving**

2 **SEC. 511. DONATIONS OF MOTOR VEHICLES, BOATS, AND** 3 **AIRCRAFT.**

4 (a) IN GENERAL.—Subsection (f) of section 170 (re-
5 relating to disallowance of deduction in certain cases and
6 special rules) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(11) CONTRIBUTIONS OF MOTOR VEHICLES,
9 BOATS, AND AIRCRAFT.—

10 “(A) IN GENERAL.—Except as provided in
11 regulations or other guidance, in the case of a
12 contribution of a specified vehicle to which
13 paragraph (8) applies, no deduction shall be al-
14 lowed under subsection (a) for such contribu-
15 tion unless the taxpayer obtains a qualified ap-
16 praisal of the specified vehicle on or before the
17 date of such contribution.

18 “(B) EXCEPTION FOR INVENTORY PROP-
19 erty.—Subparagraph (A) shall not apply to
20 property which is described in section
21 1221(a)(1).

22 “(C) SPECIFIED VEHICLE.—For purposes
23 of this paragraph, the term ‘specified vehicle’
24 means any—

1 “(i) motor vehicle manufactured pri-
2 marily for use on public streets, roads, and
3 highways,

4 “(ii) boat, or

5 “(iii) aircraft.

6 “(D) QUALIFIED APPRAISAL.—For pur-
7 poses of this paragraph, the term ‘qualified ap-
8 praisal’ means any appraisal which is treated
9 for purposes of this paragraph as a qualified
10 appraisal under regulations or other guidance
11 prescribed by the Secretary.

12 “(E) REGULATIONS OR OTHER GUID-
13 ANCE.—The Secretary shall prescribe such reg-
14 ulations or other guidance as may be necessary
15 to carry out the purposes of this paragraph.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to contributions made after
18 March 12, 2004.

19 **SEC. 512. INCREASED REPORTING FOR NONCASH CHARI-**
20 **TABLE CONTRIBUTIONS.**

21 (a) IN GENERAL.—Subsection (f) of section 170 (re-
22 lating to disallowance of deduction in certain cases and
23 special rules), as amended by section 511, is further
24 amended by adding at the end the following new para-
25 graph:

1 “(12) QUALIFIED APPRAISAL AND OTHER DOC-
2 UMENTATION FOR CERTAIN CONTRIBUTIONS.—

3 “(A) IN GENERAL.—

4 “(i) DENIAL OF DEDUCTION.—In the
5 case of an individual, partnership, or cor-
6 poration, no deduction shall be allowed
7 under subsection (a) for any contribution
8 of property for which a deduction of more
9 than \$500 is claimed unless such person
10 meets the requirements of subparagraphs
11 (B), (C), and (D), as the case may be,
12 with respect to such contribution.

13 “(ii) EXCEPTIONS.—

14 “(I) READILY VALUED PROP-
15 PERTY.—Subparagraphs (C) and (D)
16 shall not apply to cash, property de-
17 scribed in section 1221(a)(1), and
18 publicly traded securities (as defined
19 in section 6050L(a)(2)(B)).

20 “(II) REASONABLE CAUSE.—

21 Clause (i) shall not apply if it is
22 shown that the failure to meet such
23 requirements is due to reasonable
24 cause and not to willful neglect.

1 “(B) PROPERTY DESCRIPTION FOR CON-
2 TRIBUTIONS OF MORE THAN \$500.—In the case
3 of contributions of property for which a deduc-
4 tion of more than \$500 is claimed, the require-
5 ments of this subparagraph are met if the indi-
6 vidual, partnership or corporation includes with
7 the return for the taxable year in which the
8 contribution is made a description of such prop-
9 erty and such other information as the Sec-
10 retary may require. The requirements of this
11 subparagraph shall not apply to a C corporation
12 which is not a personal service corporation or a
13 closely held C corporation.

14 “(C) QUALIFIED APPRAISAL FOR CON-
15 TRIBUTIONS OF MORE THAN \$5,000.—In the
16 case of contributions of property for which a
17 deduction of more than \$5,000 is claimed, the
18 requirements of this subparagraph are met if
19 the individual, partnership, or corporation ob-
20 tains a qualified appraisal of such property and
21 attaches to the return for the taxable year in
22 which such contribution is made such informa-
23 tion regarding such property and such appraisal
24 as the Secretary may require.

1 “(D) SUBSTANTIATION FOR CONTRIBU-
2 TIONS OF MORE THAN \$500,000.—In the case of
3 contributions of property for which a deduction
4 of more than \$500,000 is claimed, the require-
5 ments of this subparagraph are met if the indi-
6 vidual, partnership, or corporation attaches to
7 the return for the taxable year a qualified ap-
8 praisal of such property.

9 “(E) QUALIFIED APPRAISAL.—For pur-
10 poses of this paragraph, the term ‘qualified ap-
11 praisal’ means, with respect to any property, an
12 appraisal of such property which is treated for
13 purposes of this paragraph as a qualified ap-
14 praisal under regulations or other guidance pre-
15 scribed by the Secretary.

16 “(F) AGGREGATION OF SIMILAR ITEMS OF
17 PROPERTY.—For purposes of determining
18 thresholds under this paragraph, property and
19 all similar items of property donated to 1 or
20 more donees shall be treated as 1 property.

21 “(G) SPECIAL RULE FOR PASS-THRU ENTI-
22 TIES.—In the case of a partnership or S cor-
23 poration, this paragraph shall be applied at the
24 entity level, except that the deduction shall be
25 denied at the partner or shareholder level.

1 “(H) REGULATIONS.—The Secretary may
2 prescribe such regulations as may be necessary
3 or appropriate to carry out the purposes of this
4 paragraph, including regulations that may pro-
5 vide that some or all of the requirements of this
6 paragraph do not apply in appropriate cases.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to contributions made after March
9 12, 2004.

10 **SEC. 513. TREATMENT OF CHARITABLE CONTRIBUTIONS OF**
11 **PATENTS AND SIMILAR PROPERTY.**

12 (a) IN GENERAL.—Subparagraph (B) of section
13 170(e)(1) is amended by striking “or” at the end of clause
14 (i), by adding “or” at the end of clause (ii), and by insert-
15 ing after clause (ii) the following new clause:

16 “(iii) of any patent, copyright (other
17 than a copyright described in section
18 1221(a)(3) or 1231(b)(1)(C)), trademark,
19 trade name, trade secret, know-how, soft-
20 ware (other than software described in sec-
21 tion 197(e)(3)(A)(i)), or similar property,
22 or applications or registrations of such
23 property,”.

24 (b) CERTAIN DONEE INCOME FROM INTELLECTUAL
25 PROPERTY TREATED AS AN ADDITIONAL CHARITABLE

1 CONTRIBUTION.—Section 170 is amended by redesi-
2 nating subsection (m) as subsection (n) and by inserting
3 after subsection (l) the following new subsection:

4 “(m) CERTAIN DONEE INCOME FROM INTELLEC-
5 TUAL PROPERTY TREATED AS AN ADDITIONAL CHARI-
6 TABLE CONTRIBUTION.—

7 “(1) TREATMENT AS ADDITIONAL CONTRIBU-
8 TION.—In the case of a taxpayer who makes a quali-
9 fied intellectual property contribution, the deduction
10 allowed under subsection (a) for each taxable year of
11 the taxpayer ending on or after the date of such con-
12 tribution shall be increased (subject to the limita-
13 tions under subsection (b)) by the applicable per-
14 centage of qualified donee income with respect to
15 such contribution which is properly allocable to such
16 year under this subsection.

17 “(2) QUALIFIED DONEE INCOME.—For pur-
18 poses of this subsection, the term ‘qualified donee
19 income’ means any net income received by or ac-
20 crued to the donee which is properly allocable to the
21 qualified intellectual property.

22 “(3) ALLOCATION OF QUALIFIED DONEE IN-
23 COME TO TAXABLE YEARS OF DONOR.—For pur-
24 poses of this subsection, qualified donee income shall
25 be treated as properly allocable to a taxable year of

1 the donor if such income is received by or accrued
 2 to the donee for the taxable year of the donee which
 3 ends within or with such taxable year of the donor.

4 “(4) 10-YEAR LIMITATION.—Income shall not
 5 be treated as properly allocable to qualified intellec-
 6 tual property for purposes of this subsection if such
 7 income is received by or accrued to the donee after
 8 the 10-year period beginning on the date of the con-
 9 tribution of such property.

10 “(5) BENEFIT LIMITED TO LIFE OF INTELLEC-
 11 TUAL PROPERTY.—Income shall not be treated as
 12 properly allocable to qualified intellectual property
 13 for purposes of this subsection if such income is re-
 14 ceived by or accrued to the donee after the expira-
 15 tion of the legal life of such property.

16 “(6) APPLICABLE PERCENTAGE.—For purposes
 17 of this subsection, the term ‘applicable percentage’
 18 means the percentage determined under the fol-
 19 lowing table which corresponds to a taxable year of
 20 the donor ending on or after the date of the quali-
 21 fied intellectual property contribution:

“Taxable Year of Donor Ending on or After Date of Contribution:	Applicable Percentage:
1st	100
2nd	100
3rd	90
4th	80
5th	70
6th	60

“Taxable Year of Donor Ending on or After Date of Contribution:	Applicable Percentage:
7th	50
8th	40
9th	30
10th	20
11th	10
12th	10.

1 “(7) QUALIFIED INTELLECTUAL PROPERTY
2 CONTRIBUTION.—For purposes of this subsection,
3 the term ‘qualified intellectual property contribution’
4 means any charitable contribution of qualified intel-
5 lectual property—

6 “(A) the amount of which taken into ac-
7 count under this section is reduced by reason of
8 subsection (e)(1), and

9 “(B) with respect to which the donor in-
10 forms the donee at the time of such contribu-
11 tion that the donor intends to treat such con-
12 tribution as a qualified intellectual property
13 contribution for purposes of this subsection and
14 section 6050L.

15 “(8) QUALIFIED INTELLECTUAL PROPERTY.—
16 For purposes of this subsection, the term ‘qualified
17 intellectual property’ means property described in
18 subsection (e)(1)(B)(iii) (other than property con-
19 tributed to or for the use of an organization de-
20 scribed in subsection (e)(1)(B)(ii)).

21 “(9) OTHER SPECIAL RULES.—

1 “(A) APPLICATION OF LIMITATIONS ON
2 CHARITABLE CONTRIBUTIONS.—Any increase
3 under this subsection of the deduction provided
4 under subsection (a) shall be treated for pur-
5 poses of subsection (b) as a deduction which is
6 attributable to a charitable contribution to the
7 donee to which such increase relates.

8 “(B) NET INCOME DETERMINED BY
9 DONEE.—The net income taken into account
10 under paragraph (2) shall not exceed the
11 amount of such income reported under section
12 6050L(b)(1).

13 “(C) DEDUCTION LIMITED TO 12 TAXABLE
14 YEARS.—Except as may be provided under sub-
15 paragraph (D)(i), this subsection shall not
16 apply with respect to any qualified intellectual
17 property contribution for any taxable year of
18 the donor after the 12th taxable year of the
19 donor which ends on or after the date of such
20 contribution.

21 “(D) REGULATIONS.—The Secretary may
22 issue regulations or other guidance to carry out
23 the purposes of this subsection, including regu-
24 lations or guidance—

1 “(i) modifying the application of this
 2 subsection in the case of a donor or donee
 3 with a short taxable year, and

4 “(ii) providing for the determination
 5 of an amount to be treated as net income
 6 of the donee which is properly allocable to
 7 qualified intellectual property in the case
 8 of a donee who uses such property to fur-
 9 ther a purpose or function constituting the
 10 basis of the donee’s exemption under sec-
 11 tion 501 (or, in the case of a governmental
 12 unit, any purpose described in section
 13 170(c)) and does not possess a right to re-
 14 ceive any payment from a third party with
 15 respect to such property.”.

16 (c) REPORTING REQUIREMENTS.—

17 (1) IN GENERAL.—Section 6050L (relating to
 18 returns relating to certain dispositions of donated
 19 property) is amended to read as follows:

20 **“SEC. 6050L. RETURNS RELATING TO CERTAIN DONATED**
 21 **PROPERTY.**

22 “(a) DISPOSITIONS OF DONATED PROPERTY.—

23 “(1) IN GENERAL.—If the donee of any chari-
 24 table deduction property sells, exchanges, or other-
 25 wise disposes of such property within 2 years after

1 its receipt, the donee shall make a return (in accord-
2 ance with forms and regulations prescribed by the
3 Secretary) showing—

4 “(A) the name, address, and TIN of the
5 donor,

6 “(B) a description of the property,

7 “(C) the date of the contribution,

8 “(D) the amount received on the disposi-
9 tion, and

10 “(E) the date of such disposition.

11 “(2) DEFINITIONS.—For purposes of this sub-
12 section—

13 “(A) CHARITABLE DEDUCTION PROP-
14 erty.—The term ‘charitable deduction prop-
15 erty’ means any property (other than publicly
16 traded securities) contributed in a contribution
17 for which a deduction was claimed under sec-
18 tion 170 if the claimed value of such property
19 (plus the claimed value of all similar items of
20 property donated by the donor to 1 or more
21 donees) exceeds \$5,000.

22 “(B) PUBLICLY TRADED SECURITIES.—
23 The term ‘publicly traded securities’ means se-
24 curities for which (as of the date of the con-

1 tribution) market quotations are readily avail-
2 able on an established securities market.

3 “(b) QUALIFIED INTELLECTUAL PROPERTY CON-
4 TRIBUTIONS.—

5 “(1) IN GENERAL.—Each donee with respect to
6 a qualified intellectual property contribution shall
7 make a return (at such time and in such form and
8 manner as the Secretary may by regulations pre-
9 scribe) with respect to each specified taxable year of
10 the donee showing—

11 “(A) the name, address, and TIN of the
12 donor,

13 “(B) a description of the qualified intellec-
14 tual property contributed,

15 “(C) the date of the contribution, and

16 “(D) the amount of net income of the
17 donee for the taxable year which is properly al-
18 locable to the qualified intellectual property (de-
19 termined without regard to paragraph (9)(B) of
20 section 170(m) and with the modifications de-
21 scribed in paragraphs (4) and (5) of such sec-
22 tion).

23 “(2) DEFINITIONS.—For purposes of this sub-
24 section—

1 “(A) IN GENERAL.—Terms used in this
2 subsection which are also used in section
3 170(m) have the respective meanings given
4 such terms in such section.

5 “(B) SPECIFIED TAXABLE YEAR.—The
6 term ‘specified taxable year’ means, with re-
7 spect to any qualified intellectual property con-
8 tribution, any taxable year of the donee any
9 portion of which is part of the 10-year period
10 beginning on the date of such contribution.

11 “(c) STATEMENT TO BE FURNISHED TO DONORS.—
12 Every person making a return under subsection (a) or (b)
13 shall furnish a copy of such return to the donor at such
14 time and in such manner as the Secretary may by regula-
15 tions prescribe.”.

16 (d) COORDINATION WITH APPRAISAL REQUIRE-
17 MENTS.—Subclause (I) of section 170(f)(12)(A)(ii), as
18 added by 512, is amended by inserting “subsection
19 (e)(1)(B)(iii) or” before “section 1221(a)(1)”.

20 (e) ANTI-ABUSE RULES.—The Secretary of the
21 Treasury may prescribe such regulations or other guid-
22 ance as may be necessary or appropriate to prevent the
23 avoidance of the purposes of section 170(e)(1)(B)(iii) of
24 the Internal Revenue Code of 1986 (as added by sub-
25 section (a)), including preventing—

1 (1) the circumvention of the reduction of the
2 charitable deduction by embedding or bundling the
3 patent or similar property as part of a charitable
4 contribution of property that includes the patent or
5 similar property,

6 (2) the manipulation of the basis of the prop-
7 erty to increase the amount of the charitable deduc-
8 tion through the use of related persons, pass-thru
9 entities, or other intermediaries, or through the use
10 of any provision of law or regulation (including the
11 consolidated return regulations), and

12 (3) a donor from changing the form of the pat-
13 ent or similar property to property of a form for
14 which different deduction rules would apply.

15 (f) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to contributions made after March
17 12, 2004.

18 **Subtitle C—Tax Collection**

19 **Contracts**

20 **SEC. 521. QUALIFIED TAX COLLECTION CONTRACTS.**

21 (a) CONTRACT REQUIREMENTS.—

22 (1) IN GENERAL.—Subchapter A of chapter 64
23 (relating to collection) is amended by adding at the
24 end the following new section:

1 **“SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.**

2 “(a) IN GENERAL.—Nothing in any provision of law
3 shall be construed to prevent the Secretary from entering
4 into a qualified tax collection contract.

5 “(b) QUALIFIED TAX COLLECTION CONTRACT.—For
6 purposes of this section, the term ‘qualified tax collection
7 contract’ means any contract which—

8 “(1) is for the services of any person (other
9 than an officer or employee of the Treasury Depart-
10 ment)—

11 “(A) to locate and contact any taxpayer
12 specified by the Secretary,

13 “(B) to request full payment from such
14 taxpayer of an amount of Federal tax specified
15 by the Secretary and, if such request cannot be
16 met by the taxpayer, to offer the taxpayer an
17 installment agreement providing for full pay-
18 ment of such amount during a period not to ex-
19 ceed 5 years, and

20 “(C) to obtain financial information speci-
21 fied by the Secretary with respect to such tax-
22 payer,

23 “(2) prohibits each person providing such serv-
24 ices under such contract from committing any act or
25 omission which employees of the Internal Revenue

1 Service are prohibited from committing in the per-
2 formance of similar services,

3 “(3) prohibits subcontractors from—

4 “(A) having contacts with taxpayers,

5 “(B) providing quality assurance services,

6 and

7 “(C) composing debt collection notices, and

8 “(4) permits subcontractors to perform other
9 services only with the approval of the Secretary.

10 “(c) FEES.—The Secretary may retain and use an
11 amount not in excess of 25 percent of the amount collected
12 under any qualified tax collection contract for the costs
13 of services performed under such contract. The Secretary
14 shall keep adequate records regarding amounts so retained
15 and used. The amount credited as paid by any taxpayer
16 shall be determined without regard to this subsection.

17 “(d) NO FEDERAL LIABILITY.—The United States
18 shall not be liable for any act or omission of any person
19 performing services under a qualified tax collection con-
20 tract.

21 “(e) APPLICATION OF FAIR DEBT COLLECTION
22 PRACTICES ACT.—The provisions of the Fair Debt Collec-
23 tion Practices Act (15 U.S.C. 1692 et seq.) shall apply
24 to any qualified tax collection contract, except to the ex-

1 tent superseded by section 6304, section 7602(c), or by
2 any other provision of this title.

3 “(f) CROSS REFERENCES.—

4 “(1) For damages for certain unauthorized col-
5 lection actions by persons performing services under
6 a qualified tax collection contract, see section
7 7433A.

8 “(2) For application of Taxpayer Assistance
9 Orders to persons performing services under a quali-
10 fied tax collection contract, see section 7811(a)(4).”.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 7809(a) is amended by insert-
13 ing “6306,” before “7651”.

14 (B) The table of sections for subchapter A
15 of chapter 64 is amended by adding at the end
16 the following new item:

“Sec. 6306. Qualified Tax Collection Contracts.”.

17 (b) CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED
18 COLLECTION ACTIONS BY PERSONS PERFORMING SERV-
19 ICES UNDER QUALIFIED TAX COLLECTION CON-
20 TRACTS.—

21 (1) In general.—Subchapter B of chapter 76
22 (relating to proceedings by taxpayers and third par-
23 ties) is amended by inserting after section 7433 the
24 following new section:

1 **“SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHOR-**
2 **IZED COLLECTION ACTIONS BY PERSONS**
3 **PERFORMING SERVICES UNDER QUALIFIED**
4 **TAX COLLECTION CONTRACTS.**

5 “(a) IN GENERAL.—Subject to the modifications pro-
6 vided by subsection (b), section 7433 shall apply to the
7 acts and omissions of any person performing services
8 under a qualified tax collection contract (as defined in sec-
9 tion 6306(b)) to the same extent and in the same manner
10 as if such person were an employee of the Internal Rev-
11 enue Service.

12 “(b) MODIFICATIONS.—For purposes of subsection
13 (a)—

14 “(1) Any civil action brought under section
15 7433 by reason of this section shall be brought
16 against the person who entered into the qualified tax
17 collection contract with the Secretary and shall not
18 be brought against the United States.

19 “(2) Such person and not the United States
20 shall be liable for any damages and costs determined
21 in such civil action.

22 “(3) Such civil action shall not be an exclusive
23 remedy with respect to such person.

24 “(4) Subsections (c), (d)(1), and (e) of section
25 7433 shall not apply.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions for subchapter B of chapter 76 is amended by
3 inserting after the item relating to section 7433 the
4 following new item:

 “Sec. 7433A. Civil damages for certain unauthorized collection ac-
 tions by persons performing services under a quali-
 fied tax collection contract.”.

5 (c) APPLICATION OF TAXPAYER ASSISTANCE OR-
6 DERS TO PERSONS PERFORMING SERVICES UNDER A
7 QUALIFIED TAX COLLECTION CONTRACT.—Section 7811
8 (relating to taxpayer assistance orders) is amended by
9 adding at the end the following new subsection:

10 “(g) APPLICATION TO PERSONS PERFORMING SERV-
11 ICES UNDER A QUALIFIED TAX COLLECTION CON-
12 TRACT.—Any order issued or action taken by the National
13 Taxpayer Advocate pursuant to this section shall apply to
14 persons performing services under a qualified tax collec-
15 tion contract (as defined in section 6306(b)) to the same
16 extent and in the same manner as such order or action
17 applies to the Secretary.”.

18 (d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT
19 MISCONDUCT TO PERFORM UNDER CONTRACT.—Section
20 1203 of the Internal Revenue Service Restructuring Act
21 of 1998 (relating to termination of employment for mis-
22 conduct) is amended by adding at the end the following
23 new subsection:

1 (B) The table of sections for part IV of sub-
2 chapter O of chapter 1 is amended by striking the
3 item relating to section 1056.

4 (2) Section 1245(a) (relating to gain from dis-
5 position of certain depreciable property) is amended
6 by striking paragraph (4).

7 (3) Section 1253 (relating to transfers of fran-
8 chises, trademarks, and trade names) is amended by
9 striking subsection (e).

10 (c) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), the amendments made by this section
13 shall apply to property acquired after the date of the
14 enactment of this Act.

15 (2) SECTION 1245.—The amendment made by
16 subsection (b)(2) shall apply to franchises acquired
17 after the date of the enactment of this Act.

18 **SEC. 532. CLASS LIVES FOR UTILITY GRADING COSTS.**

19 (a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E)
20 (defining 15-year property) is amended by striking “and”
21 at the end of clause (ii), by striking the period at the end
22 of clause (iii) and inserting “, and”, and by adding at the
23 end the following new clause:

1 “(iv) initial clearing and grading land
2 improvements with respect to gas utility
3 property.”.

4 (b) ELECTRIC UTILITY PROPERTY.—Section
5 168(e)(3) is amended by adding at the end the following
6 new subparagraph:

7 “(F) 20-YEAR PROPERTY.—The term ‘20-
8 year property’ means initial clearing and grad-
9 ing land improvements with respect to any elec-
10 tric utility transmission and distribution
11 plant.”.

12 (c) CONFORMING AMENDMENTS.—The table con-
13 tained in section 168(g)(3)(B) is amended by adding at
14 the end the following new items:

“(E)(iv)	20
“(F)	25”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to property placed in service after
17 the date of the enactment of this Act.

18 **SEC. 533. MODIFICATION OF CONTINUING LEVY ON PAY-**
19 **MENTS TO FEDERAL VENDERS.**

20 (a) IN GENERAL.—Section 6331(h) (relating to con-
21 tinuing levy on certain payments) is amended by adding
22 at the end the following new paragraph:

23 “(3) INCREASE IN LEVY FOR CERTAIN PAY-
24 MENTS.—Paragraph (1) shall be applied by sub-

1 stituting ‘100 percent’ for ‘15 percent’ in the case
2 of any specified payment due to a vendor of goods
3 or services sold or leased to the Federal Govern-
4 ment.”.

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

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