AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Calendar No. 498

108TH CONGRESS
2D SESSION

S. 882

[Report No. 108–257]

To amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safeguards, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2003

Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. HATCH, Mrs. FEINSTEIN, Mr. ROCKEFELLER, Mr. SMITH, and Mr. BREAUX) introduced the following bill; which was read twice and referred to the Committee on Finance

MAY 4, 2004

Reported by Mr. GRASSLEY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safeguards, and for other purposes.

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

~~**SECTION 1. SHORT TITLE; ETC.**~~

~~(a) SHORT TITLE.—This Act may be cited as the "Tax Administration Good Government Act".~~

~~(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.~~

~~(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:~~

~~Sec. 1. Short title; etc.~~

~~TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS~~

~~Subtitle A—Improving Efficiency and Safeguards in Internal Revenue Service Collection~~

~~Sec. 101. Waiver of user fee for installment agreements using automated withdrawals.~~
~~Sec. 102. Partial payment of tax liability in installment agreements.~~
~~Sec. 103. Termination of installment agreements.~~
~~Sec. 104. Office of Chief Counsel review of offers in compromise.~~
~~Sec. 105. Seven-day threshold on tolling of statute of limitations during National Taxpayer Advocate review.~~
~~Sec. 106. Increase in penalty for bad checks or money orders.~~
~~Sec. 107. Financial management service fees.~~
~~Sec. 108. Elimination of restriction on offsetting refunds from former residents.~~

~~Subtitle B—Processing and Personnel~~

~~Sec. 111. Explanation of statute of limitations and consequences of failure to file.~~
~~Sec. 112. Disclosure of tax information to facilitate combined employment tax reporting.~~
~~Sec. 113. Expansion of declaratory judgment remedy to tax-exempt organizations.~~
~~Sec. 114. Amendment to Treasury auction reforms.~~
~~Sec. 115. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.~~
~~Sec. 116. IRS Oversight Board approval of use of critical pay authority.~~
~~Sec. 117. Low-income taxpayer clinics.~~
~~Sec. 118. Enrolled agents.~~
~~Sec. 119. Establishment of disaster response team.~~
~~Sec. 120. Accelerated tax refunds.~~
~~Sec. 121. Study on clarifying record-keeping responsibilities.~~
~~Sec. 122. Streamline reporting process for National Taxpayer Advocate.~~

~~Subtitle C—Other Provisions~~

~~Sec. 131. Penalty on failure to report interests in foreign financial accounts.~~
~~Sec. 132. Repeal of personal holding company tax.~~

~~TITLE II—REFORM OF PENALTY AND INTEREST~~

~~Sec. 201. Individual estimated tax.~~
~~Sec. 202. Corporate estimated tax.~~
~~Sec. 203. Increase in large corporation threshold for estimated tax payments.~~
~~Sec. 204. Abatement of interest.~~
~~Sec. 205. Deposits made to suspend running of interest on potential underpayments.~~
~~Sec. 206. Freeze of provision regarding suspension of interest where Secretary fails to contact taxpayer.~~
~~Sec. 207. Expansion of interest netting.~~
~~Sec. 208. Clarification of application of Federal tax deposit penalty.~~
~~Sec. 209. Frivolous tax submissions.~~

~~TITLE III—UNITED STATES TAX COURT MODERNIZATION~~

~~Subtitle A—Tax Court Procedure~~

~~Sec. 301. Jurisdiction of Tax Court over collection due process cases.~~
~~Sec. 302. Authority for special trial judges to hear and decide certain employment status cases.~~
~~Sec. 303. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.~~
~~Sec. 304. Tax Court filing fee in all cases commenced by filing petition.~~
~~Sec. 305. Amendments to appoint employees.~~
~~Sec. 306. Expanded use of Tax Court practice fee for pro se taxpayers.~~

~~Subtitle B—Tax Court Pension and Compensation~~

~~Sec. 311. Annuities for survivors of Tax Court judges who are assassinated.~~
~~Sec. 312. Cost-of-living adjustments for Tax Court judicial survivor annuities.~~
~~Sec. 313. Life insurance coverage for Tax Court judges.~~
~~Sec. 314. Cost of life insurance coverage for Tax Court judges age 65 or over.~~
~~Sec. 315. Modification of timing of lump-sum payment of judges' accrued annual leave.~~
~~Sec. 316. Participation of Tax Court judges in the Thrift Savings Plan.~~
~~Sec. 317. Exemption of teaching compensation of retired judges from limitation on outside earned income.~~
~~Sec. 318. General provisions relating to magistrate judges of the Tax Court.~~
~~Sec. 319. Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court.~~
~~Sec. 320. Retirement and annuity program.~~
~~Sec. 321. Incumbent magistrate judges of the Tax Court.~~
~~Sec. 322. Provisions for recall.~~
~~Sec. 323. Effective date.~~

~~TITLE IV—CONFIDENTIALITY AND DISCLOSURE~~

~~Sec. 401. Clarification of definition of church tax inquiry.~~
~~Sec. 402. Collection activities with respect to joint return disclosable to either spouse based on oral request.~~
~~Sec. 403. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.~~

~~Sec. 404. Prohibition of disclosure of taxpayer identifying number with respect to disclosure of accepted offers-in-compromise.~~
~~Sec. 405. Compliance by contractors and other agents with confidentiality safeguards.~~
~~Sec. 406. Higher standards for requests for and consents to disclosure.~~
~~Sec. 407. Civil damages for unauthorized inspection or disclosure.~~
~~Sec. 408. Expanded disclosure in emergency circumstances.~~
~~Sec. 409. Disclosure of taxpayer identity for tax refund purposes.~~
~~Sec. 410. Disclosure to State officials of proposed actions related to section 501(c) organizations.~~
~~Sec. 411. Treatment of public records.~~
~~Sec. 412. Investigative disclosures.~~
~~Sec. 413. TIN matching.~~
~~Sec. 414. Form 8300 disclosures.~~
~~Sec. 415. Technical amendment.~~

~~TITLE V—SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS~~

~~Sec. 501. Simplification through elimination of inoperative provisions.~~

~~TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS~~

~~Subtitle A—Improving Efficiency and Safeguards in Internal Revenue Service Collection~~

~~SEC. 101. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.~~

~~(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:~~

~~"(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are~~

~~agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.''.~~

~~(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.~~

~~SEC. 102. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.~~

~~(a) IN GENERAL.—~~

~~(1) Section 6159(a) (relating to authorization of agreements) is amended—~~

~~(A) by striking ''satisfy liability for payment of'' and inserting ''make payment on'', and~~

~~(B) by inserting ''full or partial'' after ''facilitate''.~~

~~(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting ''full'' before ''payment''.~~

~~(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:~~

~~"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".~~

~~(e) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.~~

~~SEC. 103. TERMINATION OF INSTALLMENT AGREEMENTS.~~

~~(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:~~

~~"(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,~~

~~"(D) to file a return of tax imposed under this title by its due date (including extensions), or".~~

~~(b) CONFORMING AMENDMENT.—Section 6159(b)(4) is amended by striking "FAILURE TO PAY AN INSTALL-~~

~~MENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION'' and inserting ''FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION''.~~

~~(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.~~

~~SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.~~

~~(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking ''Whenever a compromise'' and all that follows through ''his delegate'' and inserting ''If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion''.~~

~~(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.~~

~~(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.~~

~~SEC. 105. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING NATIONAL TAXPAYER ADVOCATE REVIEW.~~

~~(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.~~

~~SEC. 106. INCREASE IN PENALTY FOR BAD CHECKS OR MONEY ORDERS.~~

~~(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—~~

~~(1) by striking "$750" and inserting "$1,250", and~~

~~(2) by striking "$15" and inserting "$25".~~

~~(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after December 31, 2003.~~

~~SEC. 107. FINANCIAL MANAGEMENT SERVICE FEES.~~

~~Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to~~

~~cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.~~

~~SEC. 108. ELIMINATION OF RESTRICTION ON OFFSETTING REFUNDS FROM FORMER RESIDENTS.~~

~~Section 6402(e) (relating to collection of past-due, legally enforceable State income tax obligations) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.~~

~~Subtitle B—Processing and Personnel~~

~~SEC. 111. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.~~

~~The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2001 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—~~

~~(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and~~

~~(2) the consequences under such section 6511 of the failure to file a return of tax.~~

~~SEC. 112. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.~~

~~Section 6103(d)(5) is amended to read as follows:~~

~~"(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary may disclose~~

~~taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.''.~~

~~SEC. 113. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.~~

~~(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—~~

~~(1) in subparagraph (B) by inserting after ''509(a))'' the following: ''or as a private operating foundation (as defined in section 4942(j)(3))'';~~ ~~and~~

~~(2) by amending subparagraph (C) to read as follows:~~

~~''(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or''.~~

~~(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".~~

~~(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2003.~~

~~SEC. 114. AMENDMENT TO TREASURY AUCTION REFORMS.~~

~~(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to meetings held after the date of the enactment of this Act.~~

~~SEC. 115. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.~~

~~(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:~~

~~"SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.~~

~~"(a) IN GENERAL.—Subject to subsection (c), the Commissioner shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.~~

~~"(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—~~

~~"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets,~~

~~"(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative,~~

~~"(3) with respect to a taxpayer or taxpayer representative, the violation of—~~

~~"(A) any right under the Constitution of the United States, or~~

~~"(B) any civil right established under—~~

~~"(i) title VI or VII of the Civil Rights Act of 1964,~~

~~"(ii) title IX of the Education Amendments of 1972,~~

~~"(iii) the Age Discrimination in Employment Act of 1967,~~

~~"(iv) the Age Discrimination Act of 1975,~~

~~"(v) section 501 or 504 of the Rehabilitation Act of 1973, or~~

~~"(vi) title I of the Americans with Disabilities Act of 1990,~~

~~"(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative,~~

~~"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery,~~

~~"(6) violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative,~~

~~"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry,~~

~~"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect,~~

~~"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect, and~~

~~"(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.~~

~~"(c) DETERMINATIONS OF COMMISSIONER.—~~

~~"(1) IN GENERAL.—The Commissioner may take a personnel action other than termination for an act or omission described under subsection (b).~~

~~"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to~~

any other officer. The Commissioner, in the Commissioner's sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) NO APPEAL.—Any determination of the Commissioner under this subsection may not be appealed in any administrative or judicial proceeding.

"(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Termination of employment for misconduct.".

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

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

~~SEC. 116. IRS OVERSIGHT BOARD APPROVAL OF USE OF CRITICAL PAY AUTHORITY.~~

~~(a) IN GENERAL.—Section 7802(d)(3) (relating to management) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; and", and by adding at the end the following new subparagraph:~~

> ~~"(D) review and approve the Commissioner's use of critical pay authority under section 9502 of title 5, United States Code, and streamlined critical pay authority under section 9503 of such title.".~~

~~(b) EFFECTIVE DATE.—The amendments made by this section shall apply to personnel hired after the date of the enactment of this Act.~~

~~SEC. 117. LOW-INCOME TAXPAYER CLINICS.~~

~~(a) GRANTS FOR RETURN PREPARATION CLINICS.—~~

~~(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:~~

~~"SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.~~

~~"(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.~~

~~"(b) DEFINITIONS.—For purposes of this section—~~

~~"(1) QUALIFIED RETURN PREPARATION CLINIC.—~~

~~"(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—~~

~~"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and~~

~~"(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.~~

~~"(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in~~

~~accordance with criteria established by the Director of the Office of Management and Budget.~~

~~"(2) CLINIC.—The term 'clinic' includes—~~

~~"(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and~~

~~"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).~~

~~"(c) SPECIAL RULES AND LIMITATIONS.—~~

~~"(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.~~

~~"(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.".~~

~~(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:~~

~~"Sec. 7526A. Return preparation clinics for low-income taxpayers.".~~

~~(b) GRANTS FOR TAXPAYER REPRESENTATION AND ASSISTANCE CLINICS.—~~

~~(1) INCREASE IN AUTHORIZED GRANTS.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking "$6,000,000" and inserting "$10,000,000".~~

~~(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—~~

~~(A) IN GENERAL.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:~~

~~"(6) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.".~~

~~(B) CONFORMING AMENDMENTS.—Section 7526(c)(5) is amended—~~

(i) by inserting "qualified" before "low-income", and

(ii) by striking the last sentence.

(3) PROMOTION OF CLINICS.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

"(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

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

SEC. 118. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules pro-

~~mulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.''.~~

~~(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:~~

~~''Sec. 7527. Enrolled agents.''.~~

~~(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.~~

~~SEC. 119. ESTABLISHMENT OF DISASTER RESPONSE TEAM.~~

~~(a) IN GENERAL.—Section 7508A (relating to authority to postpone certain tax-related deadlines by reason of presidentially declared disaster) is amended by adding at the end the following new subsection:~~

~~''(c) DUTIES OF DISASTER RESPONSE TEAM.—~~

~~''(1) RESPONSE TO DISASTERS.—The Secretary shall—~~

~~''(A) establish as a permanent office in the national office of the Internal Revenue Service a disaster response team composed of members, who in addition to their regular responsibilities, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting~~

~~from any Presidentially declared disaster (as so defined), and~~

~~"(B) respond to requests by such taxpayers for filing extensions and technical guidance expeditiously.~~

~~"(2) PERSONNEL OF DISASTER RESPONSE TEAM.—The disaster response team shall be composed of—~~

~~"(A) personnel from the Office of the Taxpayer Advocate, and~~

~~"(B) personnel from the national office of the Internal Revenue Service with expertise in individual, corporate, and small business tax matters.~~

~~"(3) COORDINATION WITH FEMA.—The disaster response team shall operate in coordination with the Director of the Federal Emergency Management Agency.~~

~~"(4) TOLL-FREE TELEPHONE NUMBER.—The Commissioner of Internal Revenue shall establish and maintain a toll-free telephone number for taxpayers to use to receive assistance from the disaster response team.~~

~~"(5) INTERNET WEBPAGE SITE.—The Commissioner of Internal Revenue shall establish and main-~~

~~tain a site on the Internet webpage of the Internal Revenue Service for information for taxpayers described in paragraph (1)(A).''.~~

~~(b) FEMA.—The Director of the Federal Emergency Management Agency shall work in coordination with the disaster response team established under section 7804(c)(1)(A) of the Internal Revenue Code of 1986 to provide timely assistance to disaster victims described in such section, including—~~

~~(1) informing the disaster response team regarding any tax-related problems or issues arising in connection with the disaster,~~

~~(2) providing the toll-free telephone number established and maintained by the Internal Revenue Service for the disaster victims in all materials provided to such victims, and~~

~~(3) providing the information described in section 7804(c)(5) of such Code on the Internet webpage of the Federal Emergency Management Agency or through a link on such webpage to the Internet webpage site of the Internal Revenue Service described in such section.~~

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

~~SEC. 120. ACCELERATED TAX REFUNDS.~~

~~(a) STUDY.—The Secretary of the Treasury shall study the implementation of an accelerated refund program for taxpayers who—~~

~~(1) maintain the same filing characteristics from year to year, and~~

~~(2) elect the direct deposit option for any refund under the program.~~

~~(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.~~

~~SEC. 121. STUDY ON CLARIFYING RECORD-KEEPING RESPONSIBILITIES.~~

~~(a) STUDY.—The Secretary of the Treasury shall study—~~

~~(1) the scope of the records required to be maintained by taxpayers under section 6001 of the Internal Revenue Code of 1986,~~

~~(2) the utility of requiring taxpayers to maintain all records indefinitely,~~

~~(3) such requirement given the necessity to upgrade technological storage for outdated records,~~

~~(4) the number of negotiated records retention agreements requested by taxpayers and the number entered into by the Internal Revenue Service, and~~

~~(5) proposals regarding taxpayer record-keeping.~~

~~(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.~~

~~SEC. 122. STREAMLINE REPORTING PROCESS FOR NATIONAL TAXPAYER ADVOCATE.~~

~~(a) ONE ANNUAL REPORT.—Subparagraph (B) of section 7803(c)(2) (relating to functions of Office) is amended—~~

~~(1) by striking all matter preceding subclause (I) of clause (ii) and inserting the following:~~

~~"(B) ANNUAL REPORT.—~~

~~"(i) IN GENERAL.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee of Ways and Means of the House of Representatives and the Com-~~

mittee on Finance of the Senate on the objectives of the Office of the Taxpayer of Advocate for the fiscal year beginning in such calendar year and the activities of such Office during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—",

(2) by striking "clause (ii)" in clause (iv) and inserting "clause (i)", and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to reports in calendar year 2003 and thereafter.

Subtitle C—Other Provisions

SEC. 131. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil

~~money penalty on any person who violates, or causes any violation of, any provision of section 5314.~~

~~"(B) AMOUNT OF PENALTY.—~~

~~"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.~~

~~"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—~~

~~"(I) such violation was due to reasonable cause, and~~

~~"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.~~

~~"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—~~

~~"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—~~

~~"(I) $25,000, or~~

~~"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and~~

~~"(ii) subparagraph (B)(ii) shall not apply.~~

~~"(D) AMOUNT.—The amount determined under this subparagraph is—~~

~~"(i) in the case of a violation involving a transaction, the amount of the transaction, or~~

~~"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation."~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.~~

~~SEC. 132. REPEAL OF PERSONAL HOLDING COMPANY TAX.~~

~~(a) IN GENERAL.—Part II of subchapter G of chapter 1 (relating to personal holding companies) is hereby repealed.~~

~~(b) CONFORMING AMENDMENTS.—~~

~~(1) Section 12(2) is amended to read as follows:~~

~~"(2) For accumulated earnings tax, see part I of subchapter G (sec. 531 and following).".~~

~~(2) Section 26(b)(2) is amended by striking subparagraph (G) and by redesignating the succeeding subparagraphs accordingly.~~

~~(3) Section 30A(c) is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).~~

~~(4) Section 41(e)(7)(E) is amended by adding "and" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).~~

~~(5) Section 56(b)(2) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).~~

~~(6) Section 170(e)(4)(D) is amended by adding "and" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).~~

~~(7) Section 111(d) is amended to read as follows:~~

~~"(d) SPECIAL RULES FOR ACCUMULATED EARNINGS TAX.—In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531—~~

~~"(1) any excluded amount under subsection (a) allowed for purposes of this subtitle (other than sec-~~

~~tion 531) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 for the prior taxable year, and~~

~~"(2) where any excluded amount under subsection (a) was not allowed as a deduction for the prior taxable year for purposes of this subtitle other than section 531 but was allowable for the same taxable year under section 531, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531.".~~

~~(8)(A) Section 316(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).~~

~~(B) Section 331(b) is amended by striking "(other than a distribution referred to in paragraph (2)(B) of section 316(b))".~~

~~(9) Section 341(d) is amended—~~

~~(A) by striking "section 544(a)" and inserting "section 465(f)", and~~

~~(B) by inserting before the period at the end of the next to the last sentence "and such paragraph (2) shall be applied by inserting 'by or for his partner' after 'his family' ".~~

~~(10) Section 381(c) is amended by striking paragraphs (14) and (17).~~

~~(11) Section 443(e) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.~~

~~(12) Section 447(g)(4)(A) is amended by striking "other than—" and all that follows and inserting "other than an S corporation."~~

~~(13)(A) Section 465(a)(1)(B) is amended to read as follows:~~

~~"(B) a C corporation which is closely held,".~~

~~(B) Section 465(a)(3) is amended to read as follows:~~

~~"(3) CLOSELY HELD DETERMINATION.—For purposes of paragraph (1), a corporation is closely held if, at any time during the last half of the taxable year, more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by or for not more than 5 individuals. For purposes of this paragraph, an organization described in section 401(a), 501(c)(17), or 509(a) or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) shall be considered an individual."~~

~~(C) Section 465 is amended by adding at the end the following new subsection:~~

~~"(f) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of subsection (a)(3)—~~

~~"(1) STOCK NOT OWNED BY INDIVIDUAL.—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.~~

~~"(2) FAMILY OWNERSHIP.—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family. For purposes of this paragraph, the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.~~

~~"(3) OPTIONS.—If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.~~

~~"(4) APPLICATION OF FAMILY AND OPTION RULES.—Paragraphs (2) and (3) shall be applied if,~~

~~but only if, the effect is to make the corporation closely held under subsection (a)(3).~~

~~"(5) CONSTRUCTIVE OWNERSHIP AS ACTUAL OWNERSHIP.—Stock constructively owned by a person by reason of the application of paragraph (1) or (3), shall, for purposes of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for purposes of again applying such paragraph in order to make another the constructive owner of such stock.~~

~~"(6) OPTION RULE IN LIEU OF FAMILY RULE.—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).~~

~~"(7) CONVERTIBLE SECURITIES.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock if the effect of the inclusion of all such securities is to make the corporation closely held under subsection (a)(3). The requirement under the preceding sentence that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the out-~~

~~standing securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.''~~

~~(D) Section 465(c)(7)(B) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.~~

~~(E) Section 465(c)(7)(G) is amended to read as follows:~~

~~''(G) LOSS OF 1 MEMBER OF AFFILIATED GROUP MAY NOT OFFSET INCOME OF PERSONAL SERVICE CORPORATION.—Nothing in this paragraph shall permit any loss of a member of an affiliated group to be used as an offset against the income of any other member of such group which is a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2)).''~~

~~(14) Sections 508(d), 4947, and 4948(c)(4) are each amended by striking ''545(b)(2),'' each place it appears.~~

~~(15) Section 532(b) is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.~~

~~(16) Sections 535(b)(1) and 556(b)(1) are each amended by striking "section 541" and inserting "section 541 (as in effect before its repeal)".~~

~~(17)(A) Section 553(a)(1) is amended by striking "section 543(d)" and inserting "subsection (c)".~~

~~(B) Section 553 is amended by adding at the end the following new subsection:~~

~~"(c) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—~~

~~"(1) IN GENERAL.—For purposes of subsection (a), the term 'active business computer software royalties' means any royalties—~~

~~"(A) received by any corporation during the taxable year in connection with the licensing of computer software, and~~

~~"(B) with respect to which the requirements of paragraphs (2), (3), (4), and (5) are met.~~

~~"(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this para-~~

~~graph are met if the royalties described in paragraph (1)—~~

~~"(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and~~

~~"(B) are attributable to computer software which—~~

~~"(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or~~

~~"(ii) is directly related to such trade or business.~~

~~"(3) ROYALTIES MUST CONSTITUTE AT LEAST 50 PERCENT OF INCOME.—The requirements of this paragraph are met if the royalties described in paragraph (1) constitute at least 50 percent of the ordinary gross income of the corporation for the taxable year.~~

~~"(4) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—~~

~~"(A) IN GENERAL.—The requirements of this paragraph are met if—~~

~~"(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or~~

~~"(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.~~

~~If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.~~

~~"(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.~~

~~"(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no~~

~~deduction shall be taken into account with respect to compensation for personal services rendered by the 5 individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account.''~~

~~(18) Section 561(a) is amended by striking paragraph (3), by inserting ''and'' at the end of paragraph (1), and by striking '', and'' at the end of paragraph (2) and inserting a period.~~

~~(19) Section 562(b) is amended to read as follows:~~

~~''(b) DISTRIBUTIONS IN LIQUIDATION.—Except in the case of a foreign personal holding company described in section 552—~~

~~''(1) in the case of amounts distributed in liquidation, the part of such distribution which is properly chargeable to earnings and profits accumulated after February 28, 1913, shall be treated as a dividend for purposes of computing the dividends paid deduction, and~~

~~"(2) in the case of a complete liquidation occurring within 24 months after the adoption of a plan of liquidation, any distribution within such period pursuant to such plan shall, to the extent of the earnings and profits (computed without regard to capital losses) of the corporation for the taxable year in which such distribution is made, be treated as a dividend for purposes of computing the dividends paid deduction.~~

~~For purposes of paragraph (1), a liquidation includes a redemption of stock to which section 302 applies. Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company."~~

~~(20) Section 563 is amended by striking subsection (b).~~

~~(21) Section 564 is hereby repealed.~~

~~(22) Section 631(c) is amended by striking "or section 545(b)(5)".~~

~~(23) Section 852(b)(1) is amended by striking "which is a personal holding company (as defined in section 542) or".~~

~~(24)(A) Section 856(h)(1) is amended to read as follows:~~

~~"(1) IN GENERAL.—For purposes of subsection (a)(6), a corporation, trust, or association is closely held if the stock ownership requirement of section 465(a)(3) is met."~~

~~(B) Section 856(h)(3)(A)(i) is amended by striking "section 542(a)(2)" and inserting "section 465(a)(3)".~~

~~(C) Paragraph (3) of section 856(h) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.~~

~~(D) Subparagraph (C) of section 856(h)(3), as redesignating by the preceding subparagraph, is amended by striking "subparagraph (C)" and inserting "subparagraph (B)".~~

~~(25) The last sentence of section 882(c)(2) is amended to read as follows:~~

~~"The preceding sentence shall not be construed to deny the credit provided by section 33 for tax withheld at source or the credit provided by section 34 for certain uses of gasoline.".~~

~~(26) Section 936(a)(3) is amended by striking subparagraph (C), by inserting "or" at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).~~

~~(27) Section 992(d) is amended by striking paragraph (2) and by redesignating succeeding paragraphs accordingly.~~

~~(28) Section 992(e) is amended by striking "and section 541 (relating to personal holding company tax)".~~

~~(29) Section 1202(e)(8) is amended by striking "section 543(d)(1)" and inserting "section 553(e)(1)".~~

~~(30) Section 1362(d)(3)(C)(iii) is amended by adding at the end the following new sentence: "References to section 542 in the preceding sentence shall be treated as references to such section as in effect on the day before its repeal."~~

~~(31) Section 1504(e)(2)(B) is amended by adding "and" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).~~

~~(32) Section 2057(e)(2)(C) is amended by adding at the end the following new sentence: "References to sections 542 and 543 in the preceding sentence shall be treated as references to such sections as in effect on the day before their repeal."~~

~~(33) Sections 6422 is amended by striking paragraph (3) and by redesignating paragraphs (4)~~

~~through (12) and paragraphs (3) through (11), respectively.~~

~~(34) Section 6501 is amended by striking subsection (f).~~

~~(35) Section 6503(k) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.~~

~~(36) Section 6515 is amended by striking paragraph (1) and by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.~~

~~(37) Subsections (d)(1)(B) and (e)(2) of section 6662 are each amended by striking "or a personal holding company (as defined in section 542)".~~

~~(38) Section 6683 is hereby repealed.~~

~~(c) CLERICAL AMENDMENTS.—~~

~~(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part II.~~

~~(2) The table of sections for part IV of such subchapter G is amended by striking the item relating to section 564.~~

~~(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6683.~~

~~(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 2003.~~

~~TITLE II—REFORM OF PENALTY AND INTEREST~~

~~SEC. 201. INDIVIDUAL ESTIMATED TAX.~~

~~(a) INCREASE IN EXCEPTION FOR INDIVIDUALS OWING SMALL AMOUNT OF TAX.—Section 6654(e)(1) (relating to exception where tax is small amount) is amended by striking "$1,000" and inserting "$2,000".~~

~~(b) COMPUTATION OF ADDITION TO TAX.—Subsections (a) and (b) of section 6654 (relating to failure by individual to pay estimated taxes) are amended to read as follows:~~

~~"(a) ADDITION TO THE TAX.—~~

~~"(1) IN GENERAL.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual for a taxable year, there shall be added to the tax under chapters 1 and 2 for the taxable year the amount determined under paragraph (2) for each day of underpayment.~~

"(2) AMOUNT.—The amount of the addition to tax for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) DETERMINATION OF INTEREST RATE.—

"(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means

~~the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).~~

~~"(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.~~

~~"(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year."~~

~~(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.~~

~~SEC. 202. CORPORATE ESTIMATED TAX.~~

~~(a) INCREASE IN SMALL TAX AMOUNT EXCEPTION.—Section 6655(f) (relating to exception where tax is small amount) is amended by striking "$500" and inserting "$1,000".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.~~

~~SEC. 203. INCREASE IN LARGE CORPORATION THRESHOLD FOR ESTIMATED TAX PAYMENTS.~~

~~(a) IN GENERAL.—Section 6655(g)(2) (defining large corporation) is amended—~~

~~(1) by striking "$1,000,000" in subparagraph (A) and inserting "the applicable amount",~~

~~(2) by redesignating subparagraph (B) as subparagraph (C), and~~

~~(3) by inserting after subparagraph (A) the following new subparagraph:~~

~~"(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount is $1,000,000 increased (but not above $1,500,000) by $50,000 for each taxable year beginning after 2004.".~~

~~(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.~~

~~SEC. 204. ABATEMENT OF INTEREST.~~

~~(a) ABATEMENT OF INTEREST FOR PERIODS ATTRIBUTABLE TO ANY UNREASONABLE IRS ERROR OR DELAY.—Section 6404(e)(1) is amended—~~

~~(1) by striking "in performing a ministerial or managerial act" in subparagraphs (A) and (B),~~

~~(2) by striking "deficiency" in subparagraph (A) and inserting "underpayment of any tax, addition to tax, or penalty imposed by this title", and~~

~~(3) by striking "tax described in section 6212(a)" in subparagraph (B) and inserting "tax, addition to tax, or penalty imposed by this title".~~

~~(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—~~

~~(1) in the subsection heading, by striking "PENALTY OR ADDITION" and inserting "INTEREST, PENALTY, OR ADDITION"; and~~

~~(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".~~

~~(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.~~

~~SEC. 205. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.~~

~~(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:~~

~~"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.~~

~~"(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.~~

~~"(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.~~

~~"(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.~~

~~"(d) PAYMENT OF INTEREST.—~~

~~"(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.~~

~~"(2) DISPUTABLE TAX.—~~

~~"(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.~~

~~"(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.~~

~~"(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—~~

~~"(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—~~

~~"(i) has a reasonable basis for its treatment of such item, and~~

~~"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.~~

~~"(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.~~

~~"(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.~~

~~"(e) USE OF DEPOSITS.—~~

~~"(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.~~

~~"(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".~~

~~(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:~~

~~"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".~~

~~(c) EFFECTIVE DATE.—~~

~~(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after December 31, 2003.~~

~~(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.~~

~~SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.~~

~~(a) IN GENERAL.—Section 6404(G) (relating to suspension of interest and certain penalties where secretary fails to contact taxpayer) is amended by striking "1-year period (18-month period in the case of taxable years beginning before January 1, 2004)" both places it appears and inserting "18-month period".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.~~

~~SEC. 207. EXPANSION OF INTEREST NETTING.~~

~~(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply.".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after December 31, 2003.~~

~~SEC. 208. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.~~

~~Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage~~

~~specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.~~

~~SEC. 209. FRIVOLOUS TAX SUBMISSIONS.~~

~~(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:~~

~~"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.~~

~~"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—~~

~~"(1) such person files what purports to be a return of a tax imposed by this title but which—~~

~~"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or~~

~~"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and~~

~~"(2) the conduct referred to in paragraph (1)—~~

~~"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or~~

~~"(B) reflects a desire to delay or impede the administration of Federal tax laws.~~

~~"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—~~

~~"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.~~

~~"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—~~

~~"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—~~

~~"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or~~

~~"(ii) reflects a desire to delay or impede the administration of Federal tax laws.~~

~~"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—~~

~~"(i) a request for a hearing under—~~

~~"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or~~

~~"(II) section 6330 (relating to notice and opportunity for hearing before levy), and~~

~~"(ii) an application under—~~

~~"(I) section 7811 (relating to taxpayer assistance orders),~~

~~"(II) section 6159 (relating to agreements for payment of tax liability in installments), or~~

~~"(III) section 7122 (relating to compromises).~~

~~"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.~~

~~"(e) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).~~

~~"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would~~

~~promote compliance with and administration of the Federal tax laws.~~

~~"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law."~~

~~(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—~~

~~(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:~~

~~"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review."~~

~~(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—~~

~~(A) by striking "(A)" and inserting "(A)(i)";~~

~~(B) by striking "(B)" and inserting "(ii)";~~

~~(C) by striking the period at the end of the first sentence and inserting "; or"; and~~

~~(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:~~

~~"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A)."~~

~~(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".~~

~~(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—~~

~~(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and~~

~~(2) in subsection (e), by striking "and (e)" and inserting "(e), and (g)".~~

~~(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:~~

1 ~~"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-~~
2 ~~standing any other provision of this section, if the Sec-~~
3 ~~retary determines that any portion of an application for~~
4 ~~an offer-in-compromise or installment agreement sub-~~
5 ~~mitted under this section or section 6159 meets the re-~~
6 ~~quirement of clause (i) or (ii) of section 6702(b)(2)(A),~~
7 ~~then the Secretary may treat such portion as if it were~~
8 ~~never submitted and such portion shall not be subject to~~
9 ~~any further administrative or judicial review."~~
10 ~~(e) CLERICAL AMENDMENT.—The table of sections~~
11 ~~for part I of subchapter B of chapter 68 is amended by~~
12 ~~striking the item relating to section 6702 and inserting~~
13 ~~the following new item:~~

~~"Sec. 6702. Frivolous tax submissions."~~

14 ~~(f) EFFECTIVE DATE.—The amendments made by~~
15 ~~this section shall apply to submissions made and issues~~
16 ~~raised after the date on which the Secretary first pre-~~
17 ~~scribes a list under section 6702(c) of the Internal Rev-~~
18 ~~enue Code of 1986, as amended by subsection (a).~~

~~TITLE III—UNITED STATES TAX COURT MODERNIZATION~~

~~Subtitle A—Tax Court Procedure~~

~~SEC. 301. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.~~

~~(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:~~

~~"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date of the enactment of this Act.~~

~~SEC. 302. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.~~

~~(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:~~

~~"(5) any proceeding under section 7436(c), and".~~

~~(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking "or (4)" and inserting "(4), or (5)".~~

~~(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.~~

~~SEC. 303. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.~~

~~(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the~~

~~United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.~~

~~SEC. 304. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.~~

~~(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows "petition" and inserting a period.~~

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

~~SEC. 305. AMENDMENTS TO APPOINT EMPLOYEES.~~

~~(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:~~

~~"(a) APPOINTMENT AND COMPENSATION.—~~

~~"(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.~~

~~"(2) LAW CLERKS AND SECRETARIES.—~~

~~"(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint~~

~~law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.~~

~~"(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.~~

~~"(3) DEPUTIES AND OTHER EMPLOYEES.—The clerk may appoint necessary deputies and employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such deputies and employees shall be subject to removal by the clerk.~~

~~"(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of~~

~~chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.~~

~~"(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.~~

~~"(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—~~

~~"(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and~~

~~"(B) promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment.~~

~~"(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.~~

~~"(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—~~

~~"(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,~~

~~"(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,~~

~~"(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,~~

~~"(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or~~

~~"(E) file an appeal with the Equal Employment Opportunity Commission under part~~

~~1614 of title 29 of the Code of Federal Regulations,~~

~~shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.~~

~~"(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.~~

~~"(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—~~

~~"(A) include the principles set forth in section 2301(b) of title 5, United States Code;~~

~~"(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and~~

~~"(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference~~

for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 306. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end ''and to provide services to pro se taxpayers''.

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

Subtitle B—Tax Court Pension and Compensation

SEC. 311. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

''(h) ENTITLEMENT TO ANNUITY.—

''(1) IN GENERAL.—

~~"(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).~~

~~"(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—~~

~~"(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or~~

~~"(ii) 20 percent of such average annual salary, divided by the number of such children.~~

~~"(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving~~

~~spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—~~

~~"(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or~~

~~"(ii) 40 percent of such average annual salary, divided by the number of such children.~~

~~"(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—~~

~~"(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or~~

~~"(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions~~

~~provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.~~

~~"(3) TERMINATION OF ANNUITY.—~~

~~"(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.~~

~~"(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.~~

~~"(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of~~

~~such child or children shall be recomputed and paid as provided in paragraph (1)(C).~~

~~"(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.~~

~~"(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—~~

~~"(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by~~

~~"(B) the amount of such salary deductions that were actually made before the date of the judge's death.~~

~~(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:~~

~~"(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.".~~

~~(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—~~

~~(1) by striking the subsection heading and inserting the following:~~

~~"(i) DETERMINATIONS BY CHIEF JUDGE.—~~

~~"(1) DEPENDENCY AND DISABILITY.—",~~

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

~~(3) by adding at the end the following new paragraph:~~

~~"(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.".~~

~~(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—~~

~~(1) by striking the subsection heading and inserting the following:~~

~~"(m) COMPUTATION OF ANNUITIES.—~~

~~"(1) IN GENERAL.—",~~

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

~~(3) by adding at the end the following new paragraph:~~

~~"(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.".~~

~~(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:~~

~~"(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.".~~

~~SEC. 312. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.~~

~~(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:~~

~~"(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).".~~

~~(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.~~

~~SEC. 313. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.~~

~~(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:~~

~~"(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code~~

~~(relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.''.~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.~~

~~SEC. 314. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.~~

~~Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: ''Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.''.~~

~~**SEC. 315. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.**~~

~~(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:~~

~~"(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.~~

~~SEC. 316. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.~~

~~(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:~~

~~"(k) THRIFT SAVINGS PLAN.—~~

~~"(1) ELECTION TO CONTRIBUTE.—~~

~~"(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.~~

~~"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.~~

~~"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).~~

~~"(3) SPECIAL RULES.—~~

~~"(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not ex-~~

~~ceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.~~

~~"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.~~

~~"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—~~

~~"(i) retires under subsection (b), or~~

~~"(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).~~

~~Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.~~

~~"(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall~~

~~apply with respect to a judge who makes an election under paragraph (1).~~

~~"(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.~~

~~SEC. 317. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.~~

~~(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:~~

~~"(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under subsection (a)(5) of that section shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.~~

~~SEC. 318. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.~~

~~(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:~~

~~"SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.".~~

~~(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:~~

~~"(a) APPOINTMENT, TENURE, AND REMOVAL.—~~

~~"(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate~~

~~judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.~~

~~"(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.".~~

~~(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking "90" and inserting "92".~~

~~(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:~~

~~"(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—~~

~~"(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.~~

~~"(2) TREATMENT OF UNUSED LEAVE.—~~

~~"(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.~~

~~"(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity~~

~~includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.~~

~~"(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.".~~

~~(e) CONFORMING AMENDMENTS.—~~

~~(1) The heading of subsection (b) of section 7443A is amended by striking "SPECIAL TRIAL JUDGES" and inserting "MAGISTRATE JUDGES OF THE TAX COURT".~~

~~(2) Section 7443A(b) is amended by striking "special trial judges of the court" and inserting "magistrate judges of the Tax Court".~~

~~(3) Subsections (c) and (d) of section 7443A are amended by striking "special trial judge" and inserting "magistrate judge of the Tax Court" each place it appears.~~

~~(4) Section 7443A(c) is amended by striking "special trial judges" and inserting "magistrate judges of the Tax Court".~~

~~(5) Section 7456(a) is amended by striking "special trial judge" each place it appears and inserting "magistrate judge".~~

~~(6) Subsection (c) of section 7471 is amended—~~

~~(A) by striking the subsection heading and inserting "MAGISTRATE JUDGES OF THE TAX COURT.—", and~~

~~(B) by striking "special trial judges" and inserting "magistrate judges".~~

~~SEC. 319. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.~~

~~(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:~~

~~"(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.~~

~~"(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.".~~

~~(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—~~

~~(1) by striking the subsection heading and inserting the following:~~

~~"(b) ELECTION.—~~

~~"(1) JUDGES.—",~~

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

~~(3) by adding at the end the following new paragraph:~~

~~"(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of~~

~~this section. Such election shall be filed not later than the later of 6 months after—~~

~~"(A) 6 months after the date of the enactment of this paragraph,~~

~~"(B) the date the judge takes office, or~~

~~"(C) the date the judge marries.".~~

~~(c) CONFORMING AMENDMENTS.—~~

~~(1) The heading of section 7448 is amended by inserting "**AND MAGISTRATE JUDGES**" after "**JUDGES**".~~

~~(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting "and magistrate judges" after "judges".~~

~~(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—~~

~~(A) by inserting "or magistrate judge" after "judge" each place it appears other than in the phrase "chief judge", and~~

~~(B) by inserting "or magistrate judge's" after "judge's" each place it appears.~~

~~(4) Section 7448(c) is amended—~~

~~(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers",~~

~~(B) in paragraph (2)—~~

~~(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and~~

~~(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsections (a)(4) and (a)(6)".~~

~~(5) Section 7448(g) is amended by inserting "or section 7443B" after "section 7447" each place it appears, and by inserting "or an annuity" after "retired pay".~~

~~(6) Section 7448(j)(1) is amended—~~

~~(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired", and by inserting ", or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code," after "section 7447", and~~

~~(B) in the last sentence, by striking "subsections (a)(6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".~~

~~(7) Section 7448(m)(1), as amended by this Act, is amended—~~

~~(A) by inserting "or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code" after "7447(d)", and~~

~~(B) by inserting "or 7443B(m)(1)(B) after "7447(f)(4)".~~

~~(8) Section 7448(n) is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court,".~~

~~(9) Section 3121(b)(5)(E) is amended by inserting "or magistrate judge" before "of the United States Tax Court".~~

~~(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or magistrate judge" before "of the United States Tax Court".~~

~~SEC. 320. RETIREMENT AND ANNUITY PROGRAM.~~

~~(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:~~

~~"SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.~~

~~"(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age~~

of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

"(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

"(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

"(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate

judge was willing to accept reappointment to the position in which such magistrate judge was serving.

"(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

"(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal

~~or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.~~

~~"(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.~~

~~"(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—~~

~~"(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—~~

~~"(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or~~

~~"(B) 5 years after the date of the enactment of this subsection.~~

~~Such notice shall be given in accordance with procedures prescribed by the Tax Court.~~

~~"(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—~~

~~"(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,~~

~~"(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,~~

~~"(C) retired pay under section 7447, or~~

~~"(D) retired pay under section 7296 of title 38, United States Code.~~

~~"(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—~~

~~"(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,~~

~~"(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and~~

~~"(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.~~

~~"(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—~~

~~"(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and~~

~~"(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.~~

~~"(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.~~

~~"(i) PAYMENTS PURSUANT TO COURT ORDER.—~~

~~"(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service~~

~~shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.~~

~~"(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.~~

~~"(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.~~

~~"(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—~~

~~"(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court re-~~

~~ceives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.~~

~~"(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and~~

~~demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).~~

~~"(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.~~

~~"(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.~~

~~"(m) ANNUITIES AFFECTED IN CERTAIN CASES.—~~

~~"(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who re-~~

~~tires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.~~

~~"(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.~~

~~"(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—~~

~~"(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—~~

~~"(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and~~

~~"(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.~~

~~"(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—~~

~~"(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and~~

~~"(ii) shall be filed with the chief judge of the Tax Court.~~

~~Such an election, once it takes effect, shall be irrevocable.~~

~~"(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take~~

~~effect on the first day of the first month following the month in which the election is made.~~

~~"(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.~~

~~"(n) LUMP-SUM PAYMENTS.—~~

~~"(1) ELIGIBILITY.—~~

~~"(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—~~

~~"(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,~~

~~"(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,~~

~~"(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and~~

~~"(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,~~

~~is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.~~

~~"(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the~~

~~Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.~~

~~"(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.~~

~~"(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.~~

~~"(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.~~

~~"(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity~~

of a magistrate judge of the Tax Court shall be paid to that individual.

"(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

"(2) SPOUSES AND FORMER SPOUSES.—

"(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

"(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

"(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court ap-

~~proved property settlement agreement incident to such decree, if—~~

~~"(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and~~

~~"(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).~~

~~"(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.~~

~~"(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe proce-~~

~~dures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).~~

~~"(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—~~

~~"(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,~~

~~"(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and~~

~~"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—~~

~~"(i) if the service covered thereby aggregates 1 year or less, or~~

~~"(ii) for the fractional part of a month in the total service.~~

~~"(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—~~

~~"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.~~

~~"(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.~~

~~"(3) UNFUNDED LIABILITY.—~~

~~"(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.~~

~~"(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with~~

~~the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—~~

~~"(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus~~

~~"(ii) the balance in the Fund as of the date the unfunded liability is determined.~~

~~"(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—~~

~~"(1) ELECTION TO CONTRIBUTE.—~~

~~"(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 321 of the Tax Administration Good Government Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.~~

~~"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.~~

~~"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).~~

~~"(3) SPECIAL RULES.—~~

~~"(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.~~

~~"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.~~

~~"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—~~

~~"(i) who retires entitled to an immediate annuity under this section (including~~

~~a disability annuity under subsection (d) of this section) or section 321 of the Tax Administration Good Government Act,~~

~~"(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 321 of the Tax Administration Good Government Act, or~~

~~"(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 321 of the Tax Administration Good Government Act.~~

~~"(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 321 of the Tax Administration Good Government Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.~~

~~"(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.~~

"(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

"(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) CONFORMING AMENDMENT.—The table of section for part I of subchapter C of chapter 76 is amended

by inserting after the item relating to section 7443A the following new item:

"Sec. 7443B. Retirement for magistrate judges of the Tax Court.".

SEC. 321. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after

~~a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—~~

~~(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and~~

~~(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.~~

~~(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to~~

~~an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.~~

~~(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.~~

~~(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—~~

~~(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and~~

~~(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code.~~

~~Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).~~

~~SEC. 322. PROVISIONS FOR RECALL.~~

~~(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:~~

~~"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.~~

~~"(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be re-~~

~~quested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—~~

~~"(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and~~

~~"(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.~~

~~Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.~~

~~"(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect~~

at the end of the year in which the period of recall occurred for the office from which such individual retired.

"(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

"Sec. 7443C. Recall of magistrate judges of the Tax Court.".

SEC. 323. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under

~~this title and the requirements under this title relating to unrelated business taxable income.''.~~

~~SEC. 402. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.~~

~~(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking ''in writing'' the first place it appears.~~

~~(b) ELIMINATION OF REPORTING REQUIREMENT.—Section 7803(d)(1) (relating to annual reporting) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively.~~

~~(c) EFFECTIVE DATES.—~~

~~(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to requests made after the date of the enactment of this Act.~~

~~(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to reports made after the date of the enactment of this Act.~~

~~SEC. 403. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.~~

~~(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—~~

~~(1) by striking "TREASURY.—Returns and return information" and inserting "TREASURY.—~~

~~"(A) IN GENERAL.—Returns and return information", and~~

~~(2) by adding at the end the following new subparagraph:~~

~~"(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return or return information of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return or return information of such representative on a basis other than by reason of such relationship.".~~

~~(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act.~~

~~SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFYING NUMBER WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.~~

~~(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting "(other than the taxpayer's identifying number)" after "Return information".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.~~

~~SEC. 405. COMPLIANCE BY CONTRACTORS AND OTHER AGENTS WITH CONFIDENTIALITY SAFEGUARDS.~~

~~(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:~~

~~"(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent~~

~~of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—~~

~~"(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,~~

~~"(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor or other agent to determine compliance with such requirements,~~

~~"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and~~

~~"(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.~~

~~The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the~~

~~duration of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.''.~~

~~(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.~~

~~(c) EFFECTIVE DATE.—~~

~~(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2003.~~

~~(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2004.~~

~~SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.~~

~~(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended—~~

~~(1) by striking ''TAXPAYER.—The Secretary'' and inserting ''TAXPAYER.—~~

~~''(1) IN GENERAL.—The Secretary'', and~~

~~(2) by adding at the end the following new paragraphs:~~

~~"(2) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—The return of any taxpayer, or return information with respect to such taxpayer, disclosed to a person or persons under paragraph (1) for a purpose specified in writing, electronically, or orally may be disclosed or used by such person or persons only for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified and shall not be disclosed or used for any other purpose.~~

~~"(3) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for written requests and consents which shall—~~

~~"(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,~~

~~"(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and~~

~~"(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.~~

1 ~~"(4) CROSS REFERENCE.—~~

~~"For provision providing for civil damages for violation of paragraph (2), see section 7431(i).".~~

2 ~~(b) CIVIL DAMAGES.—Section 7431 (relating to civil~~
3 ~~damages for unauthorized inspection or disclosure of re-~~
4 ~~turns and return information) is amended by adding at~~
5 ~~the end the following new subsection:~~

6 ~~"(i) DISCLOSURE OR USE OF RETURNS AND RETURN~~
7 ~~INFORMATION OBTAINED UNDER SUBSECTION~~
8 ~~6103(c).—Disclosure or use of returns or return informa-~~
9 ~~tion obtained under section 6103(c) other than for—~~

10 ~~"(1) the purpose of, and to the extent necessary~~
11 ~~in, accomplishing the purpose for disclosure specified~~
12 ~~in writing, electronically, or orally, or~~

13 ~~"(2) subject to the safeguards set forth in sec-~~
14 ~~tion 6103, for purposes permitted under section~~
15 ~~6103,~~

16 ~~shall be treated as a violation of section 6103(a).".~~

17 ~~(b) REPORT.—Not later than 18 months after the~~
18 ~~date of the enactment of this Act, the Secretary of the~~
19 ~~Treasury shall submit a report to the Congress on compli-~~
20 ~~ance with the designation and certification requirements~~
21 ~~applicable to requests for or consent to disclosure of re-~~
22 ~~turns and return information under section 6103(c) of the~~
23 ~~Internal Revenue Code of 1986, as amended by subsection~~
24 ~~(a). Such report shall—~~

~~(1) evaluate (on the basis of random sampling) whether—~~

~~(A) the amendment made by subsection (a) is achieving the purposes of this section;~~

~~(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and~~

~~(C) the sanctions for violations of such requirements are adequate; and~~

~~(2) include such recommendations that the Secretary of the Treasury considers necessary or appropriate to better achieve the purposes of this section.~~

~~(d) SUNSET OF EXISTING CONSENTS.—Notwithstanding any other provision of law, any request for or consent to disclose any return or return information under section 6103(c) of the Internal Revenue Code of 1986 made before the date of the enactment of this Act shall remain in effect until the earlier of the date such request or consent is otherwise terminated or the date which is 3 taxable years after such date of enactment.~~

~~(e) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.~~

~~SEC. 407. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE.~~

~~(a) NOTICE TO TAXPAYER.—Subsection (c) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Internal Revenue Service or, upon notice to the Secretary by a Federal or State agency, if such Federal or State agency, proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination.".~~

~~(b) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—Section 7431, as amended by this Act, is amended by adding at the end the following new subsection:~~

~~"(j) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—A judgment for damages shall not be awarded under subsection (c) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.".~~

~~(c) PAYMENT AUTHORITY CLARIFIED.—~~

~~(1) IN GENERAL.—Section 7431, as amended by subsection (b), is amended by adding at the end the following new subsection:~~

~~"(k) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.".~~

~~(2) ANNUAL REPORTS OF PAYMENTS.—The Secretary of the Treasury shall annually report to the Committee of Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding payments made from the United States Judgment Fund under section 7431(k) of the Internal Revenue Code of 1986.~~

~~(d) BURDEN OF PROOF FOR GOOD FAITH EXCEPTION RESTS WITH SECRETARY.—Section 7431(b) (relating to exceptions) is amended by adding at the end the following new flush sentence:~~

~~"In any proceeding involving the issue of the existence of good faith, the burden of proof with respect to such issue shall be on the Secretary.".~~

~~(e) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by this Act, is amended by adding at the end the following new paragraph:~~

~~"(10) REPORT ON WILLFUL UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the willful unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—~~

~~"(A) administrative investigations,~~

~~"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and~~

~~"(C) criminal prosecutions.".~~

~~(c) EFFECTIVE DATES.—~~

~~(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.~~

~~(2) EXHAUSTION OF REMEDIES AND BURDEN OF PROOF.—The amendments made by subsections (b) and (d) shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.~~

~~(3) PAYMENT AUTHORITY.—The amendment made by subsection (c)(1) shall take effect on the date of the enactment of this Act.~~

~~(4) REPORTS.—The amendment made by subsection (c) shall apply to calendar years ending after the date of the enactment of this Act.~~

~~SEC. 408. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.~~

~~(a) IN GENERAL.—Section 6103(i)(3)(B)(i) (relating to danger of death or physical injury) is amended by striking "or State law enforcement agency" and inserting ", State, or local law enforcement agency".~~

~~(b) CONFORMING AMENDMENTS.—Section 6103(p)(4) is amended—~~

~~(1) by striking "(i)(3)(B)(i) or (7)(A)(ii)" and inserting "(i)(7)(A)(ii)", and~~

~~(2) by striking ", (i)(3)(B)(i),".~~

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

~~SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.~~

~~(a) IN GENERAL.—Section 6103(m)(1) (relating to tax refunds) is amended by striking "taxpayer identity information to the press and other media" and by inserting "a person's name and the city, State, and zip code of the person's mailing address to the press, other media, and through any other means of mass communication,".~~

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

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(C) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

"(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

~~"(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).~~

~~"(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.~~

~~"(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—~~

~~"(i) upon written request by an appropriate State officer, and~~

~~"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.~~

~~Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on be-~~

~~half of such officer. Such representatives shall not include any contractor or agent.~~

~~"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.~~

~~"(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return in-~~

~~formation under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.~~

~~"(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).~~

~~"(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.~~

~~"(6) DEFINITIONS.—For purposes of this subsection—~~

~~"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).~~

~~"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—~~

~~"(i) the State attorney general,~~

~~"(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and~~

~~"(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.".~~

~~(b) CONFORMING AMENDMENTS.—~~

~~(1) Subsection (a) of section 6103 is amended—~~

~~(A) by inserting "or any appropriate State officer who has or had access to returns or return information under section 6104(c)" after "this section" in paragraph (2), and~~

~~(B) by striking "or subsection (n)" in paragraph (3) and inserting "subsection (n), or section 6104(c)".~~

~~(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.~~

~~(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18) or any appropriate State officer (as defined in section 6104(c))".~~

~~(4) The heading for paragraph (1) of section 6104(c) is amended by inserting "FOR CHARITABLE ORGANIZATIONS".~~

~~(5) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".~~

~~(6) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".~~

~~(7) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".~~

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

~~SEC. 411. TREATMENT OF PUBLIC RECORDS.~~

~~(a) IN GENERAL.—Section 6103(b) (relating to definitions) is amended by adding at the end the following new paragraph:~~

~~"(12) TREATMENT OF PUBLIC RECORDS.—Returns and return information shall not be subject to subsection (a) if disclosed—~~

~~"(A) in the course of any judicial or administrative proceeding or pursuant to tax administration activities, and~~

~~"(B) properly made part of the public record.".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall take effect before, on, and after the date of the enactment of this Act.~~

~~SEC. 412. INVESTIGATIVE DISCLOSURES.~~

~~(a) IN GENERAL.—Section 6103 (confidentiality and disclosure of returns and return information) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:~~

~~"(q) INVESTIGATIVE DISCLOSURES.—Nothing in this section may be construed to prohibit investigative agents of the Internal Revenue Service from identifying themselves, their organizational affiliation, and the criminal nature of an investigation when contacting third parties in writing or in person.".~~

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

~~SEC. 413. TIN MATCHING.~~

~~(a) IN GENERAL.—Section 6103(k) (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following new paragraph:~~

~~"(10) TIN MATCHING.—The Secretary may disclose to any person required to provide a taxpayer identifying number (as described in section 6109) to the Secretary whether such information matches records maintained by the Secretary.".~~

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

~~SEC. 414. FORM 8300 DISCLOSURES.~~

~~(a) IN GENERAL.—Section 6103(p)(4) (relating to safeguards) is amended by striking "(15)," both places it appears.~~

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

~~SEC. 415. TECHNICAL AMENDMENT.~~

~~(a) IN GENERAL.—Section 6103(i)(7)(A) (relating to disclosure to law enforcement agencies) is amended by adding at the end the following new clause:~~

~~"(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.".~~

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

~~TITLE V—SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS~~

~~SEC. 501. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.~~

~~(a) IN GENERAL.—~~

~~(1) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—Paragraph (7) of section 1(f) is amended to read as follows:~~

~~"(7) SPECIAL RULE FOR CERTAIN BRACKETS.—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which~~

~~the 36 percent rate bracket begins or at which the 39.6 percent rate bracket begins shall be determined under paragraph (3) by substituting '1993' for '1992'.''.~~

~~(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—Paragraph (2) of section 1(h) is amended by striking ''In the case of any taxable year beginning after December 31, 2000, the'' and inserting ''The''.~~

~~(3) CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.—Section 29 is amended by striking subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.~~

~~(4) EARNED INCOME CREDIT.—Paragraph (1) of section 32(b) is amended—~~

~~(A) by striking subparagraphs (B) and (C), and~~

~~(B) in subparagraph (A) by striking ''(A) IN GENERAL.—In the case of taxable years beginning after 1995'' and moving the table 2 ems to the left.~~

~~(5) GENERAL BUSINESS CREDITS.—Subsection (d) of section 38 is amended by striking paragraph (3).~~

~~(6) CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Subsection (d) of section 39 is amended by striking paragraphs (1) through (8) and by redesignating paragraphs (9) and (10) as paragraphs (1) and (2), respectively.~~

~~(7) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—Clause (ii) of section 56(g)(4)(F) is amended by striking "In the case of any taxable year beginning after December 31, 1992, clause" and inserting "Clause".~~

~~(8) ITEMS OF TAX PREFERENCE; DEPLETION.—Paragraph (1) of section 57(a) is amended by striking "Effective with respect to taxable years beginning after December 31, 1992, this" and inserting "This".~~

~~(9) INTANGIBLE DRILLING COSTS.—~~

~~(A) Clause (i) of section 57(a)(2)(E) is amended by striking "In the case of any taxable year beginning after December 31, 1992, this" and inserting "This".~~

~~(B) Clause (ii) of section 57(a)(2)(E) is amended by striking "(30 percent in the case of taxable years beginning in 1993)".~~

~~(10) ANNUITIES, CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.—Section 72 is amended—~~

~~(A) in subsection (c)(4) by striking "; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954", and~~

~~(B) in subsection (g)(3) by striking "January 1, 1954, or" and ", whichever is later".~~

~~(11) ACCIDENT AND HEALTH PLANS.—Section 105(f) is amended by striking "or (d)".~~

~~(12) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c)(1) is amended by striking "Effective on and after January 1, 1997, gross" and inserting "Gross".~~

~~(13) CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES.—Subsection (c) of section 112 is amended—~~

~~(A) by striking "(after June 24, 1950)" in paragraph (2), and~~

~~(B) striking "such zone;" and all that follows in paragraph (3) and inserting "such zone.".~~

~~(14) PRINCIPAL RESIDENCE.—Section 121(b)(3) is amended—~~

~~(A) by striking subparagraph (B); and~~

~~(B) in subparagraph (A) by striking "(A) IN GENERAL.—" and moving the text 2 ems to the left.~~

~~(15) CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY.—Section 122(b)(1) is amended by striking "after December 31, 1965,".~~

~~(16) GREAT PLAINS CONSERVATION PROGRAM.—Section 126(a) is amended by striking paragraph (6) and by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.~~

~~(17) MORTGAGE REVENUE BONDS FOR RESIDENCES IN FEDERAL DISASTER AREAS.—Section 143(k) is amended by striking paragraph (11).~~

~~(18) INTERIM AUTHORITY FOR GOVERNOR.—~~

~~(A) Section 146(e) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).~~

~~(B) Section 42(h)(3)(F) is amended by striking "(other than paragraph (2)(B) thereof)".~~

~~(19) TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAW.—Section 162(g) is amended by striking the last sentence.~~

~~(20) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—Paragraph (4) of section 162(h) is amended by striking "For taxable years beginning after December 31, 1980, this" and inserting "This".~~

~~(21) INTEREST.—~~

~~(A) Section 163 is amended by striking paragraph (6) of subsection (d) and paragraph (5) (relating to phase-in of limitation) of subsection (h).~~

~~(B) Section 56(b)(1)(C) is amended by striking clause (ii) and by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively.~~

~~(22) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—Section 170 is amended by striking subsection (k).~~

~~(23) AMORTIZABLE BOND PREMIUM.—Subparagraph (B) of section 171(b)(1) is amended to read as follows:~~

~~"(B)(i) in the case of a bond described in subsection (a)(2), with reference to the amount payable on maturity or earlier call date, and~~

~~"(ii) in the case of a bond described in subsection (a)(1), with reference to the amount~~

~~payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period of earlier call date, with reference to the amount payable on earlier call date), and''.~~

~~(24) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—~~

~~(A) Section 172 is amended—~~

~~(i) by striking subparagraph (D) of subsection (b)(1) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively,~~

~~(ii) by striking subsection (g), and~~

~~(iii) by striking subparagraph (F) of subsection (h)(2).~~

~~(B) Section 172(h)(4) is amended by striking ''subsection (b)(1)(E)'' each place it appears and inserting ''subsection (b)(1)(D)''.~~

~~(C) Section 172(i)(3) is amended by striking ''subsection (b)(1)(G)'' each place it appears and inserting ''subsection (b)(1)(F)''.~~

~~(D) Section 172(j) is amended by striking ''subsection (b)(1)(H)'' each place it appears and inserting ''subsection (b)(1)(G)''.~~

~~(E) Section 172, as amended by subparagraphs (A) through (D) of this paragraph, is amended—~~

~~(i) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively,~~

~~(ii) by striking "subsection (h)" each place it appears and inserting "subsection (g)", and~~

~~(iii) by striking "subsection (i)" each place it appears and inserting "subsection (h)".~~

~~(25) RESEARCH AND EXPERIMENTAL EXPENDITURES.—Subparagraph (A) of section 174(a)(2) is amended to read as follows:~~

~~"(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (1) are paid or incurred.".~~

~~(26) AMORTIZATION OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—Paragraph (2) of section 174(b)(2) is amended by striking "beginning after December 31, 1953".~~

~~(27) SOIL AND WATER CONSERVATION EXPENDITURES.—Paragraph (1) of section 175(d) is amended to read as follows:~~

~~"(1) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year for which expenditures described in subsection (a) are paid or incurred.".~~

~~(28) ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Section 183(e)(1) is amended by striking the last sentence.~~

~~(29) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK; AND DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—~~

~~(A) Sections 244 and 247 are hereby repealed and the table of sections for part VIII of subchapter B of chapter 1 is amended by striking the items relating to sections 244 and 247.~~

~~(B) Paragraph (5) of section 172(d) is amended to read as follows:~~

~~"(5) COMPUTATION OF DEDUCTION FOR DIVIDENDS RECEIVED.—The deductions allowed by section 243 (relating to dividends received by corporations) and 245 (relating to dividends received from~~

~~certain foreign corporations) shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).''.~~

~~(C) Paragraph (1) of section 243(c) is amended to read as follows:~~

~~''(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, subsection (a)(1) shall be applied by substituting '80 percent' for '70 percent'.''.~~

~~(D) Section 243(d) is amended by striking paragraph (4).~~

~~(E) Section 246 is amended—~~

~~(i) by striking '', 244,'' in subsection (a)(1),~~

~~(ii) in subsection (b)(1)—~~

~~(I) by striking ''sections 243(a)(1), and 244(a),'' the first place it appears and inserting ''section 243(a)(1),'',~~

~~(II) by striking ''244(a),'' the second place it appears therein, and~~

~~(III) by striking ''subsection (a) or (b) of section 245, and 247,'' and inserting ''and subsection (a) or (b) of section 245,'', and~~

~~(iii) by striking "~~, ~~244," in subsection (c)(1).~~

~~(F) Section 246A is amended by striking "~~, ~~244," both places it appears in subsections (a) and (c).~~

~~(G) Sections 263(g)(2)(B)(iii), 277(a), 301(c)(2), 469(c)(4), 512(a)(3)(A), subparagraphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(c)(2)(A), 815(c)(2)(A)(iii), 832(b)(5), 833(b)(3)(E), 1059(b)(2)(B), and 1244(c)(2)(C) are each amended by striking "~~, ~~244," each place it appears.~~

~~(H) Section 805(a)(4)(B) is amended by striking "~~, ~~244(a)," each place it appears.~~

~~(I) Section 810(c)(2)(B) is amended by striking "244 (relating to dividends on certain preferred stock of public utilities),".~~

~~(30) ORGANIZATION EXPENSES.—Section 248(c) is amended by striking "beginning after December 31, 1953," and by striking the last sentence.~~

~~(31) BOND REPURCHASE PREMIUM.—Section 249(b)(1) is amended by striking "~~, ~~in the case of bonds or other evidences of indebtedness issued after February 28, 1913,".~~

~~(32) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY DISALLOWED.—Section 267(d) is amended by striking "(or by reason of section 24(b) of the Internal Revenue Code of 1939)" in paragraph (1), by striking "after December 31, 1953," in paragraph (2), by striking the second sentence, and by striking "or by reason of section 118 of the Internal Revenue Code of 1939" in the last sentence.~~

~~(33) ACQUISITIONS MADE TO EVADE OR AVOID INCOME TAX.—Paragraphs (1) and (2) of section 269(a) are each amended by striking "or acquired on or after October 8, 1940,".~~

~~(34) INTEREST ON INDEBTEDNESS INCURRED BY CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.—Section 279 is amended—~~

~~(A) by striking "after December 31, 1967," in subsection (a)(2),~~

~~(B) by striking "after October 9, 1969," in subsection (b),~~

~~(C) by striking "after October 9, 1969, and" in subsection (d)(5), and~~

~~(D) by striking subsection (i) and by redesignating subsection (j) as subsection (i).~~

~~(35) SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.—Paragraph (4) of section 291(a) is amended by striking "In the case of taxable years beginning after December 31, 1984, section" and inserting "Section".~~

~~(36) QUALIFICATIONS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Section 409 is amended by striking subsections (a), (g), and (q).~~

~~(37) FUNDING STANDARDS.—Section 412(m)(4) is amended—~~

~~(A) by striking "the applicable percentage" in subparagraph (A) and inserting "25 percent", and~~

~~(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).~~

~~(38) RETIREE HEALTH ACCOUNTS.—Section 420 is amended—~~

~~(A) by striking paragraph (4) in subsection (b) and by redesignating paragraph (5) as paragraph (4), and~~

~~(B) by amending paragraph (2) of subsection (c) to read as follows:~~

~~"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The re-~~

~~quirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).''.~~

~~(39) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) is amended by striking ''after December 31, 1963,''.~~

~~(40) LIMITATION ON DEDUCTIONS FOR CERTAIN FARMING.—Section 464 is amended—~~

~~(A) by striking ''any farming syndicate (as defined in subsection (c))'' both places it appears in subsections (a) and (b) and inserting ''any taxpayer to whom subsection (f) applies'', and~~

~~(B) by striking subsection (g).~~

~~(41) DEDUCTIONS LIMITED TO AMOUNT AT RISK.—~~

~~(A) Paragraph (3) of section 465(c) is amended by striking ''In the case of taxable~~

~~years beginning after December 31, 1978, this'' and inserting ''This''.~~

~~(B) Paragraph (2) of section 465(e)(2)(A) is amended by striking ''beginning after December 31, 1978''.~~

~~(42) NUCLEAR DECOMMISSIONING COSTS.—Section 468A(e)(2) is amended—~~

~~(A) by striking ''at the rate set forth in subparagraph (B)'' in subparagraph (A) and inserting ''at a rate of 20 percent'', and~~

~~(B) by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.~~

~~(43) PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.—~~

~~(A) Section 469 is amended by striking subsection (m).~~

~~(B) Subsection (b) of section 58 is amended by adding ''and'' at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).~~

~~(44) ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF ACCOUNTING.—Section 481(b)(3) is amended by striking subparagraph (C).~~

~~(45) EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.—Section 501 is amended by striking subsection (p).~~

~~(46) REQUIREMENTS FOR EXEMPTION.—~~

~~(A) Section 503(a)(1) is amended to read as follows:~~

~~"(1) GENERAL RULE.—An organization described in paragraph (17) or (18) of section 501(a) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction.".~~

~~(B) Paragraph (2) of section 503(a) is amended by striking "described in section 501(c)(17) or (18) or paragraph (a)(1)(B)" and inserting "described in paragraph (1)".~~

~~(C) Subsection (c) of section 503 is amended by striking "described in section 501(c)(17) or (18) or subsection (a)(1)(B)" and inserting "described in subsection (a)(1)".~~

~~(47) AMOUNTS RECEIVED BY SURVIVING ANNUITANT UNDER JOINT AND SURVIVOR ANNUITY CONTRACT.—Subparagraph (A) of section 691(d)(1) is amended by striking "after December 31, 1953, and".~~

~~(48) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—Section 692(a)(1) is amended by striking "after June 24, 1950".~~

~~(49) INSURANCE COMPANY TAXABLE INCOME.—~~

~~(A) Section 832(e) is amended by striking "of taxable years beginning after December 31, 1966,".~~

~~(B) Section 832(e)(6) is amended by striking "In the case of any taxable year beginning after December 31, 1970, the" and by inserting "The".~~

~~(50) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—Subparagraph (B) of section 871(a)(1) is amended to read as follows:~~

~~"(B) gains described in subsection (b) or (c) of section 631,".~~

~~(51) PROPERTY ON WHICH LESSEE HAS MADE IMPROVEMENTS.—Section 1019 is amended by striking the last sentence.~~

~~(52) INVOLUNTARY CONVERSION.—Section 1033 is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).~~

~~(53) PROPERTY ACQUIRED DURING AFFILIATION.—Section 1051 is repealed and the table of sections for part IV of subchapter O of chapter 1 is~~

~~amended by striking the item relating to section 1051.~~

~~(54) HOLDING PERIOD OF PROPERTY.—~~

~~(A) Paragraph (5) of section 1223 is amended by striking "(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)".~~

~~(B) Paragraph (7) of section 1223 is amended by striking the last sentence.~~

~~(C) Paragraph (9) of section 1223 is repealed.~~

~~(55) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS.—Subparagraph (A) of section 1231(c)(2) is amended by striking "beginning after December 31, 1981".~~

~~(56) SALE OR EXCHANGE OF PATENTS.—Section 1235 is amended—~~

~~(A) by striking subsection (c) and by redesignating subsections (d) and (e) as (c) and (d), respectively, and~~

~~(B) by striking "(d)" in subsection (b) and inserting "(c)".~~

~~(57) DEALERS IN SECURITIES.—Subsection (b) of section 1236 is amended by striking "after November 19, 1951,".~~

~~(58) SALE OF PATENTS.—Subsection (a) of section 1249 is amended by striking "after December 31, 1962,".~~

~~(59) GAIN FROM DISPOSITION OF FARM LAND.—Paragraph (1) of section 1252(a) is amended by striking "after December 31, 1969," both places it appears.~~

~~(60) TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.—Subsection (c) of section 1271 is amended to read as follows:~~

~~"(c) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—~~

~~"(1) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—~~

~~"(A) an amount equal to the original issue discount, or~~

~~"(B) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same~~

~~ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,~~

~~shall be considered as ordinary income.~~

~~"(2) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.~~

~~"(3) CROSS REFERENCE.—~~

~~"For current inclusion of original issue discount, see section 1272.".~~

~~(61) AMOUNT AND METHOD OF ADJUSTMENT.—Section 1314 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).~~

~~(62) ELECTION; REVOCATION; TERMINATION.—Clause (iii) of section 1362(d)(3) is amended by striking "unless" and all that follows and inserting "unless the corporation was an S corporation for such taxable year.".~~

~~(63) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 is amended by striking "the following percent" and all that~~

~~follows and inserting "12.4 percent of the amount of the self-employment income for such taxable year.".~~

~~(64) HOSPITAL INSURANCE.—Subsection (b) of section 1401 is amended by striking "the following percent" and all that follows and inserting "2.9 percent of the amount of the self-employment income for such taxable year.".~~

~~(65) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Paragraph (3) of section 1402(e) is amended by striking "whichever of the following dates is later: (A)" and by striking "; or (B)" and all that follows and by inserting a period.~~

~~(66) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—The first sentence of subsection (b) of section 1441 and the first sentence of paragraph (5) of section 1441(c) are each amended by striking "gains subject to tax" and all that follows through "October 4, 1966" and inserting "and gains subject to tax under section 871(a)(1)(D)".~~

~~(67) AFFILIATED GROUP DEFINED.—Subparagraph (A) of section 1504(a)(3) is amended by striking "for a taxable year which includes any period after December 31, 1984" in clause (i) and by strik-~~

~~ing "in a taxable year beginning after December 31, 1984" in clause (ii).~~

~~(68) DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.—~~

~~(A) Subsection (a) of section 1551 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.~~

~~(B) Section 1551(b) is amended—~~

~~(i) by striking "or (2)" in paragraph (1), and~~

~~(ii) by striking "(a)(3)" in paragraph (2) and inserting "(a)(2)".~~

~~(69) DEFINITION OF WAGES.—Section 3121(b) is amended by striking paragraph (17).~~

~~(70) CREDITS AGAINST TAX.—~~

~~(A) Paragraph (4) of section 3302(f) is amended by striking "subsection—" and all that follows through "(A) IN GENERAL.—", by striking subparagraph (B), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by moving the text of such subparagraphs (as so redesignated) 2 ems to the left.~~

~~(B) Paragraph (5) of section 3302(f) is amended by striking subparagraphs (D) and by redesignating subparagraph (E) as subparagraph (D).~~

~~(71) DOMESTIC SERVICE EMPLOYMENT TAXES.—Section 3510(b) is amended by striking paragraph (4).~~

~~(72) TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Section 4042(b)(2)(A) is amended to read as follows:~~

~~"(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.".~~

~~(73) TRANSPORTATION BY AIR.—Section 4261(e) is amended—~~

~~(A) in paragraph (1) by striking subparagraph (C), and~~

~~(B) by striking paragraph (5).~~

~~(74) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942 is amended—~~

~~(A) by striking subsection (f)(2)(D),~~

~~(B) in subsection (g)(2)(A) by striking "For all taxable years beginning on or after January 1, 1975, subject" and inserting "Subject",~~

~~(C) in subsection (g) by striking paragraph (4), and~~

~~(D) in subsection (i)(2) by striking "beginning after December 31, 1969, and".~~

~~(75) TAXES ON TAXABLE EXPENDITURES.—Section 4945(f) is amended by striking "(excluding therefrom any preceding taxable year which begins before January 1, 1970)".~~

~~(76) RETURNS.—Subsection (a) of section 6039D is amended by striking "beginning after December 31, 1984,".~~

~~(77) INFORMATION RETURNS.—Subsection (c) of section 6060 is amended by striking "year" and all that follows and inserting "year.".~~

~~(78) ABATEMENTS.—Section 6404(f) is amended by striking paragraph (3).~~

~~(79) FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.—Clause (i) of section 6655(g)(4)(A) is amended by striking "(or the corresponding provisions of prior law)".~~

~~(80) RETIREMENT.—Section 7447(i)(3)(B)(ii) is amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter", and inserting "at 3 percent per annum".~~

~~(81) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF JUDGES.—~~

~~(A) Paragraph (2) of section 7448(a) is amended by striking "or under section 1106 of the Internal Revenue Code of 1939" and by striking "or pursuant to section 1106(d) of the Internal Revenue Code of 1939".~~

~~(B) Subsection (g) of section 7448 is amended by striking "or other than pursuant to section 1106 of the Internal Revenue Code of 1939".~~

~~(C) Subsection (j)(1) and (j)(2) of section 7448 are each amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter" and inserting "at 3 percent per annum".~~

~~(82) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (4) of section 7518(g) is amended by striking "any nonqualified withdrawal" and all that follows through "shall be determined" and inserting "any nonqualified withdrawal shall be determined".~~

~~(83) VALUATION TABLES.—Paragraph (3) of section 7520(c) is amended—~~

~~(A) by striking "Not later than December 31, 1989, the" and inserting "The", and~~

~~(B) by striking "thereafter" in the last sentence thereof.~~

~~(84) ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.—Section 7651 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).~~

~~(85) DEFINITION OF EMPLOYEE.—(A) Section 7701(a)(20) is amended by striking "chapter 21" and all that follows and inserting "chapter 21.".~~

~~(b) EFFECTIVE DATE.—~~

~~(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of enactment of this Act.~~

~~(2) SAVINGS PROVISION.—If—~~

~~(A) any provision amended or repealed by subsection (a) applied to—~~

~~(i) any transaction occurring before the date of the enactment of this Act,~~

~~(ii) any property acquired before such date of enactment, or~~

~~(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and~~

~~(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment,~~

~~nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.~~

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Administration Good Government Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

Sec. 101. Waiver of user fee for installment agreements using automated withdrawals.
Sec. 102. Authorization for IRS to enter into installment agreements that provide for partial payment.
Sec. 103. Termination of installment agreements.
Sec. 104. Office of Chief Counsel review of offers-in-compromise.
Sec. 105. Authorization for IRS to require increased electronic filing of returns prepared by paid return preparers.
Sec. 106. Threshold on tolling of statute of limitations during review by Taxpayer Advocate Service.
Sec. 107. Increase in penalty for bad checks and money orders.
Sec. 108. Extension of time limit for contesting IRS levy.
Sec. 109. Individuals held harmless on improper levy on individual retirement plan.
Sec. 110. Authorization for Financial Management Service retention of transaction fees from levied amounts.
Sec. 111. Elimination of restriction on offsetting refunds from former residents.

Subtitle B—Processing and Personnel

Sec. 121. Information regarding statute of limitations.
Sec. 122. Annual report on IRS performance measures.
Sec. 123. Disclosure of tax information to facilitate combined employment tax reporting.
Sec. 124. Extension of declaratory judgment procedures to non-501(c)(3) tax-exempt organizations.
Sec. 125. Amendment to Treasury auction reforms.
Sec. 126. Revisions relating to termination of employment of IRS employees for misconduct.
Sec. 127. Expansion of IRS Oversight Board Authority.
Sec. 128. IRS Oversight Board approval of use of critical pay authority.
Sec. 129. Low-income taxpayer clinics.
Sec. 130. Taxpayer access to financial institutions.
Sec. 131. Enrolled agents.
Sec. 132. Establishment of disaster response team.
Sec. 133. Study of accelerated tax refunds.
Sec. 134. Study on clarifying recordkeeping responsibilities.
Sec. 135. Streamline reporting process for National Taxpayer Advocate.
Sec. 136. IRS Free File program.
Sec. 137. Modification of TIGTA reporting requirements.
Sec. 138. Study of IRS accounts receivable.
Sec. 139. Electronic Commerce Advisory Group.
Sec. 140. Study on modifications to schedules L and M–1.
Sec. 141. Regulation of Federal income tax return preparers and refund anticipation loan providers.

Subtitle C—Other Provisions

Sec. 151. Penalty for failure to report interests in foreign financial accounts.

Sec. 152. Repeal of application of below-market loan rules to amounts paid to certain continuing care facilities.

TITLE II—REFORM OF PENALTY AND INTEREST

Sec. 201. Individual estimated tax.
Sec. 202. Corporate estimated tax.
Sec. 203. Increase in large corporation threshold for estimated tax payments.
Sec. 204. Abatement of interest.
Sec. 205. Deposits made to suspend running of interest on potential underpayments.
Sec. 206. Freeze of provisions regarding suspension of interest where Secretary fails to contact taxpayer.
Sec. 207. Clarification of application of Federal tax deposit penalty.
Sec. 208. Frivolous tax returns and submissions.
Sec. 209. Extension of notice requirements with respect to interest and penalty calculations.
Sec. 210. Expansion of interest netting.

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

Sec. 301. Jurisdiction of Tax Court over collection due process cases.
Sec. 302. Authority for special trial judges to hear and decide certain employment status cases.
Sec. 303. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.
Sec. 304. Tax Court filing fee in all cases commenced by filing petition.
Sec. 305. Amendments to appoint employees.
Sec. 306. Expanded use of Tax Court practice fee for pro se taxpayers.

Subtitle B—Tax Court Pension and Compensation

Sec. 311. Annuities for survivors of Tax Court judges who are assassinated.
Sec. 312. Cost-of-living adjustments for Tax Court judicial survivor annuities.
Sec. 313. Life insurance coverage for Tax Court judges.
Sec. 314. Cost of life insurance coverage for Tax Court judges age 65 or over.
Sec. 315. Modification of timing of lump-sum payment of judges' accrued annual leave.
Sec. 316. Participation of Tax Court judges in the Thrift Savings Plan.
Sec. 317. Exemption of teaching compensation of retired judges from limitation on outside earned income.
Sec. 318. General provisions relating to magistrate judges of the Tax Court.
Sec. 319. Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court.
Sec. 320. Retirement and annuity program.
Sec. 321. Incumbent magistrate judges of the Tax Court.
Sec. 322. Provisions for recall.
Sec. 323. Effective date.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

Sec. 401. Clarification of definition of church tax inquiry.
Sec. 402. Collection activities with respect to joint return disclosable to either spouse based on oral request.

Sec. 403. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
Sec. 404. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
Sec. 405. Compliance by contractors with confidentiality safeguards.
Sec. 406. Higher standards for requests for and consents to disclosure.
Sec. 407. Civil damages for unauthorized disclosure or inspection.
Sec. 408. Expansion of disclosure in emergency circumstances.
Sec. 409. Disclosure of taxpayer identity for tax refund purposes.
Sec. 410. Disclosure to State officials of proposed actions related to section 501(c) organizations.
Sec. 411. Treatment of public records.
Sec. 412. Employee identity disclosures.
Sec. 413. Taxpayer identification number matching.
Sec. 414. Form 8300 disclosures.
Sec. 415. Disclosure to law enforcement agencies regarding terrorist activities.

TITLE V—SIMPLIFICATION

Subtitle A—Uniform Definition of Child

Sec. 501. Uniform definition of child, etc.
Sec. 502. Modifications of definition of head of household.
Sec. 503. Modifications of dependent care credit.
Sec. 504. Modifications of child tax credit.
Sec. 505. Modifications of earned income credit.
Sec. 506. Modifications of deduction for personal exemption for dependents.
Sec. 507. Technical and conforming amendments.
Sec. 508. Effective date.

Subtitle B—Simplification Through Elimination of Inoperative Provisions

Sec. 511. Simplification through elimination of inoperative provisions.

TITLE VI—REVENUE PROVISIONS

Subtitle A—Provisions Designed to Curtail Tax Shelters

Sec. 601. Penalty for failing to disclose reportable transaction.
Sec. 602. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 603. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 604. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 605. Disclosure of reportable transactions.
Sec. 606. Modifications to penalty for failure to register tax shelters.
Sec. 607. Modification of penalty for failure to maintain lists of investors.
Sec. 608. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 609. Understatement of taxpayer's liability by income tax return preparer.
Sec. 610. Regulation of individuals practicing before the Department of Treasury.
Sec. 611. Penalty on promoters of tax shelters.
Sec. 612. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 613. Denial of deduction for interest on underpayments attributable to tax-motivated transactions.

Sec. 614. Authorization of appropriations for tax law enforcement.

PART II—OTHER CORPORATE GOVERNANCE PROVISIONS

Sec. 621. Affirmation of consolidated return regulation authority.
Sec. 622. Declaration by chief executive officer relating to Federal annual income tax return of a corporation.
Sec. 623. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 624. Disallowance of deduction for punitive damages.
Sec. 625. Increase in criminal monetary penalty for individuals to the amount of the tax at issue.
Sec. 626. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.

PART III—EXTENSION OF IRS USER FEES

Sec. 631. Extension of IRS user fees.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

SEC. 101. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) WAIVER OF USER FEES FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 102. AUTHORIZATION FOR IRS TO ENTER INTO INSTALLMENT AGREEMENTS THAT PROVIDE FOR PARTIAL PAYMENT.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years with the primary purpose of determining whether the financial condition of the taxpayer has significantly changed so as to warrant an increase in the value of the payments being made.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 103. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

"(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

"(D) to file a return of tax imposed under this title by its due date (including extensions), or".

(b) CONFORMING AMENDMENT.—Section 6159(b)(4) is amended by striking "FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION" and inserting "FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 105. AUTHORIZATION FOR IRS TO REQUIRE INCREASED ELECTRONIC FILING OF RETURNS PREPARED BY PAID RETURN PREPARERS.

(a) IN GENERAL.—Section 6011(e) (relating to regulations requiring returns on magnetic media, etc.) is amended—

(1) by striking the second sentence in paragraph (1), and

(2) by striking "250" in paragraph (2)(A) and inserting "5".

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

SEC. 106. THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING REVIEW BY TAXPAYER ADVOCATE SERVICE.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "such application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 107. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking "$750" and inserting "$1,250", and

(2) by striking "$15" and inserting "$25".

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 108. EXTENSION OF TIME LIMIT FOR CONTESTING IRS LEVY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking "9 months" and inserting "2 years".

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking "9 months" and inserting "2 years", and

(2) in paragraph (2) by striking "9-month" and inserting "2-year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 109. INDIVIDUALS HELD HARMLESS ON IMPROPER LEVY ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

"(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies and an amount is returned to the individual who is the beneficiary of such plan, the individual may deposit an amount equal to the sum of—

"(A) the amount of money returned by the Secretary on account of such levy, and

"(B) interest paid under subsection (c) on such amount of money,

into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

"(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

"(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

"(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

"(C) such deposit shall not be taken into account under section 408(d)(3)(B).

"(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and

if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

"(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2004.

SEC. 110. AUTHORIZATION FOR FINANCIAL MANAGEMENT SERVICE RETENTION OF TRANSACTION FEES FROM LEVIED AMOUNTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of

amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 111. ELIMINATION OF RESTRICTION ON OFFSETTING REFUNDS FROM FORMER RESIDENTS.

(a) IN GENERAL.—Section 6402(e) (relating to collection of past-due, legally enforceable State income tax obligations) is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) CLARIFICATION OF DISCLOSURE AUTHORITY.—Section 6103(l)(10) (relating to disclosure of certain information to agencies requesting a reduction under subsection (c), (d), or (e) or section 6402) is amended—

(1) by striking ", (d), or (e)" each place it appears and inserting "or (d)", and

(2) by striking ", (d), OR (e)" in the heading and inserting "OR (d)".

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

Subtitle B—Processing and Personnel

SEC. 121. INFORMATION REGARDING STATUTE OF LIMITATIONS.

The Secretary of the Treasury or the Secretary's delegate shall—

(1) as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and

(2) for taxable years beginning after December 31, 2004, revise any instructions booklet accompanying a general income tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto),

to provide for an explanation of the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds, and the consequences under such section 6511 of the failure to file a return of tax.

SEC. 122. ANNUAL REPORT ON IRS PERFORMANCE MEASURES.

(a) IN GENERAL.—Section 7803(a) (relating to Commissioner of Internal Revenue) is amended by adding at the end the following new paragraph:

"(4) ANNUAL REPORT ON IRS PERFORMANCE MEASURES.—Not later than December 31 of each calendar year, the Commissioner shall report to Congress and the Oversight Board on performance goals and projections for the 5-fiscal-year period beginning with the fiscal year ending in such calendar year against which to measure the performance of the Internal Revenue Service in the areas of the public rating of the Internal Revenue Service, customer service, compliance, and management initiatives. The report shall include the long-term performance goal for each measurement and a brief narrative explaining how the Commissioner plans to meet each goal. For each performance goal, the report shall include comparisons between the projected performance level and actual performance level. For each performance measurement, the report shall include a volume projection for such period. If the Internal Revenue Service fails to achieve one of its goals, the report shall explain why. The report shall also include data and a narrative regarding the actual and projected level of the workload

and resources of the Internal Revenue Service for such 5-year period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports for fiscal year 2004 and thereafter.

SEC. 123. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

"(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—The Secretary shall disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.".

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

SEC. 124. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO NON-501(c)(3) TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or".

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2004.

SEC. 125. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to meetings held after the date of the enactment of this Act.

SEC. 126. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF IRS EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

"SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.

"(a) IN GENERAL.—Subject to subsection (c), the Commissioner shall terminate the employment of any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee com-

mitted any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

"(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets,

"(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative,

"(3) with respect to a taxpayer or taxpayer representative, the violation of—

"(A) any right under the Constitution of the United States, or

"(B) any civil right established under—

"(i) title VI or VII of the Civil Rights Act of 1964,

"(ii) title IX of the Education Amendments of 1972,

"(iii) the Age Discrimination in Employment Act of 1967,

"(iv) the Age Discrimination Act of 1975,

"(v) section 501 or 504 of the Rehabilitation Act of 1973, or

"(vi) title I of the Americans with Disabilities Act of 1990,

"(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative,

"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery,

"(6) violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative,

"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry,

"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due

and owing, unless such failure is due to reasonable cause and not due to willful neglect,

"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect, and

"(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

"(c) DETERMINATIONS OF COMMISSIONER.—

"(1) IN GENERAL.—The Commissioner may take a personnel action other than termination for an act or omission described under subsection (b).

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in the Commissioner's sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) NO APPEAL.—Any determination of the Commissioner under this subsection may not be appealed in any administrative or judicial proceeding.

"(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection

(b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Termination of employment for misconduct.".

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

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

SEC. 127. EXPANSION OF IRS OVERSIGHT BOARD AUTHORITY.

(a) APPROVAL WITH RESPECT TO SENIOR EXECUTIVES.—Section 7802(d)(3)(B) (relating to management) is amended by inserting "and approve" after "review".

(b) REPORTS.—

(1) BUDGET REQUEST.—Section 7802(d) (relating to specific responsibilities) is amended—

(A) by inserting "with detailed analysis" after "budget request" in paragraph (4)(B), and

(B) by inserting "without any additional review or comment from the Commissioner, the Secretary, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget" before "to the President" in the last sentence thereof.

(2) DATE OF SUBMISSION OF ANNUAL REPORT.—Section 7802(f)(3)(A) (relating to annual reports) is amended by striking "The Oversight Board shall each year report" and insert "Not later than March 1 of each calendar year, the Oversight Board shall report".

(c) CONTINUITY IN OFFICE.—Section 7802(b)(2) (relating to qualifications and terms) is amended by adding at the end the following new subparagraph:

"(E) CONTINUATION IN OFFICE.—Any member whose term expires shall serve until the earlier of the date on which the member's successor takes office or the date which is 1 year after the date of the expiration of the member's term.

(d) ACCESS TO HEALTH BENEFITS.—Section 7802(e) (relating to Board personnel matters) is amended by adding at the end the following new paragraph:

"(5) MEMBERS ACCESS TO FEHBP.—Each member of the Oversight Board who—

"(A) is described in subsection (b)(1)(A), or

"(B) is described in subsection (b)(1)(D) and is not otherwise a Federal officer or employee,

shall be considered an employee solely for purposes of chapter 89 of title 5, United States Code.".

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

SEC. 128. IRS OVERSIGHT BOARD APPROVAL OF USE OF CRITICAL PAY AUTHORITY.

(a) IN GENERAL.—Section 7802(d)(3) (relating to management) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; and", and by adding at the end the following new subparagraph:

"(D) review and approve the Commissioner's use of critical pay authority under section 9502 of title 5, United States Code, and streamlined critical pay authority under section 9503 of such title.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to personnel hired after the date of the enactment of this Act.

SEC. 129. LOW-INCOME TAXPAYER CLINICS.

(a) GRANTS FOR RETURN PREPARATION CLINICS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

"SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

"(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED RETURN PREPARATION CLINIC.—

"(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

"(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-in-

come taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(2) CLINIC.—The term 'clinic' includes—

"(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

"(c) SPECIAL RULES AND LIMITATIONS.—

"(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of sec-

tion 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

"Sec. 7526A. Return preparation clinics for low-income taxpayers.".

(b) GRANTS FOR TAXPAYER REPRESENTATION AND ASSISTANCE CLINICS.—

(1) INCREASE IN AUTHORIZED GRANTS.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking "$6,000,000" and inserting "$10,000,000".

(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—

(A) IN GENERAL.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

"(6) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.".

(B) CONFORMING AMENDMENTS.—Section 7526(c)(5) is amended—

(i) by inserting "qualified" before "low-income", and

(ii) by striking the last sentence.

(3) PROMOTION OF CLINICS.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

"(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

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

SEC. 130. TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to award demonstration project grants (including multi-year grants) to eligible entities to provide tax preparation services and assistance in connection with establishing an account in a federally insured depository institution for individuals that currently do not have such an account.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity is eligible to receive a grant under this section if such an entity is—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986

and exempt from tax under section 501(a) of such Code,

(B) a federally insured depository institution,

(C) an agency of a State or local government,

(D) a community development financial institution,

(E) an Indian tribal organization,

(F) an Alaska Native Corporation,

(G) a Native Hawaiian organization,

(H) a labor organization, or

(I) a partnership comprised of 1 or more of the entities described in the preceding subparagraphs.

(2) DEFINITIONS.—For purposes of this section—

(A) FEDERALLY INSURED DEPOSITORY INSTITUTION.—The term "federally insured depository institution" means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(B) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "community development financial institution" means any organization that has been certified as such pursuant to section 1805.201 of title 12, Code of Federal Regulations.

(C) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as the term "Native Corporation" under section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(D) NATIVE HAWAIIAN ORGANIZATION.—The term "Native Hawaiian organization" means any organization that—

(i) serves and represents the interests of Native Hawaiians, and

(ii) has as a primary and stated purpose the provision of services to Native Hawaiians.

(E) LABOR ORGANIZATION.—The term "labor organization" means an organization—

(i) in which employees participate,

(ii) which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes,

wages, rates of pay, hours of employment, or conditions of work, and

(iii) which is described in section 501(c)(5).

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A recipient of a grant under this section may not use more than 6 percent of the total amount of such grant in any fiscal year for the administrative costs of carrying out the programs funded by such grant in such fiscal year.

(e) EVALUATION AND REPORT.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, for the grant program described in this section, $10,000,000, or such additional amounts as deemed necessary, to remain available until expended.

(g) REGULATIONS.—The Secretary is authorized to promulgate regulations to implement and administer the grant program under this section.

SEC. 131. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7529. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7529. Enrolled agents.".

(c) PRIOR REGULATIONS.—The authorization to prescribe regulations under the amendments made by this section may not be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other related

Federal rule or regulation issued before the date of the enactment of this Act.

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

SEC. 132. ESTABLISHMENT OF DISASTER RESPONSE TEAM.

(a) IN GENERAL.—Section 7803 (relating to Commissioner of Internal Revenue; other officials) is amended by adding at the end the following new subsection:

"(e) DISASTER RESPONSE TEAM.—

"(1) RESPONSE TO DISASTERS.—The Secretary shall—

"(A) establish as a permanent office in the national office of the Internal Revenue Service a disaster response team composed of members, who in addition to their regular responsibilities, shall assist taxpayers in clarifying and resolving Federal tax matters associated with or resulting from any Presidentially declared disaster (as defined in section 1033(h)(3)), and

"(B) respond to requests by such taxpayers for filing extensions and technical guidance expeditiously.

"(2) PERSONNEL OF DISASTER RESPONSE TEAM.—The disaster response team shall be composed of—

"(A) personnel from the Office of the Taxpayer Advocate, and

"(B) personnel from the national office of the Internal Revenue Service with expertise in individual, corporate, and small business tax matters.

"(3) COORDINATION WITH FEMA.—The disaster response team shall operate in coordination with the Director of the Federal Emergency Management Agency.

"(4) TOLL-FREE TELEPHONE NUMBER.—The Commissioner of Internal Revenue shall establish and maintain a toll-free telephone number for taxpayers to use to receive assistance from the disaster response team.

"(5) INTERNET WEBPAGE SITE.—The Commissioner of Internal Revenue shall establish and maintain a site on the Internet webpage of the Internal Revenue Service for information for taxpayers described in paragraph (1)(A).".

(b) FEMA.—The Director of the Federal Emergency Management Agency shall work in coordination with the

disaster response team established under section 7803(e) of the Internal Revenue Code of 1986 to provide timely assistance to disaster victims described in such section, including—

(1) informing the disaster response team regarding any tax-related problems or issues arising in connection with the disaster,

(2) providing the toll-free telephone number established and maintained by the Internal Revenue Service for the disaster victims in all materials provided to such victims, and

(3) providing the information described in section 7803(e)(5) of such Code on the Internet webpage of the Federal Emergency Management Agency or through a link on such webpage to the Internet webpage site of the Internal Revenue Service described in such section.

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

SEC. 133. STUDY OF ACCELERATED TAX REFUNDS.

(a) STUDY.—The Secretary of the Treasury shall study the implementation of an accelerated refund program for taxpayers who—

(1) maintain the same filing characteristics from year to year, and

(2) elect the direct deposit option for any refund under the program.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 134. STUDY ON CLARIFYING RECORDKEEPING RESPONSIBILITIES.

(a) STUDY.—The Secretary of the Treasury shall study—

(1) the scope of the records required to be maintained by taxpayers under section 6001 of the Internal Revenue Code of 1986,

(2) the utility of requiring taxpayers to maintain all records indefinitely,

(3) such requirement given the necessity to upgrade technological storage for outdated records,

(4) the number of negotiated records retention agreements requested by taxpayers and the number entered into by the Internal Revenue Service, and

(5) proposals regarding taxpayer record-keeping.

(b) REPORT.—Not later than the date which is 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall transmit a report of the study described in subsection (a), including recommendations, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 135. STREAMLINE REPORTING PROCESS FOR NATIONAL TAXPAYER ADVOCATE.

(a) ONE ANNUAL REPORT.—Subparagraph (B) of section 7803(c)(2) (relating to functions of Office) is amended—

(1) by striking all matter preceding subclause (I) of clause (ii) and inserting the following:

"(B) ANNUAL REPORT.—

"(i) IN GENERAL.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer of Advocate for the fiscal year beginning in such calendar year and the activities of such Office during the fiscal year ending during such calendar year. Any such report shall contain full and

substantive analysis, in addition to statistical information, and shall—",

(2) by striking "clause (ii)" in clause (iv) and inserting "clause (i)", and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) ADDITIONAL REPORTS.—Section 7803(c)(2)(C) (relating to other responsibilities) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting "; and", and by adding at the end the following new clause:

"(v) at the discretion of the National Taxpayer Advocate, report at any time to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on significant issues affecting taxpayer rights.".

(c) EFFECTIVE DATES.—

(1) ANNUAL REPORTS.—The amendments made by subsection (a) shall apply to reports in calendar year 2005 and thereafter.

(2) ADDITIONAL REPORTS.—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 136. IRS FREE FILE PROGRAM.

(a) IN GENERAL.—The Commissioner of Internal Revenue shall require that a taxpayer must provide an affirmative consent before such taxpayer may be solicited with respect to any product or service by an entity participating in the Internal Revenue Service Free File program. Any request for such consent must be prominently displayed and clearly written, in large print, on any material relating to such program.

(b) EFFECTIVE DATE.—This section shall take effect with respect to returns filed after December 31, 2004.

SEC. 137. MODIFICATION OF TIGTA REPORTING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 7803(d) (relating to additional duties of the Treasury Inspector General for Tax Administration) is amended—

(1) by striking "ANNUAL" in the heading and inserting "SEMIANNUAL",

(2) by striking "one of the semiannual reports" in the matter preceding subparagraph (A) and inserting "each semiannual report",

(3) by striking clause (ii) of subparagraph (A),

(4) by redesignating clauses (iii), (iv), and (v) of subparagraph (A) as clauses (ii), (iii), and (iv) of subparagraph (A), respectively,

(5) by striking subparagraph (B),

(6) by striking "and" at the end of subparagraph (F),

(7) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively, and

(8) by striking subparagraph (G) and inserting the following new subparagraphs:

"(F) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources; and

"(G) with respect to allegations of serious employee misconduct—

"(i) a summary of the status of such allegations; and

"(ii) a summary of the disposition of such allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such allegations.".

(b) CONFORMING AMENDMENTS.—Section 7803(d) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

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

SEC. 138. STUDY OF IRS ACCOUNTS RECEIVABLE.

(a) STUDY.—The Secretary of the Treasury shall conduct a study of the provisions of the Internal Revenue Code of 1986, and the application of such provisions, regarding collection procedures to determine if impediments exist to the efficient and timely collection of tax debts. Such study shall include an examination of the accounts receivable inventory of the Internal Revenue Service.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, including the findings of the study described in subsection (a) and such legislative or administrative recommendations as the Secretary deems appropriate to increase the efficient and timely collection of tax debts.

SEC. 139. ELECTRONIC COMMERCE ADVISORY GROUP.

(a) IN GENERAL.—Section 2001(b)(2) of the Internal Revenue Service Restructuring and Reform Act of 1998 is amended by inserting ", and at least 2 representatives from the consumer advocate community" after "industry".

(b) APPLICATION OF AMENDMENT.—The initial appointments in accordance with the amendment made by this section shall be made not later than the date which is 180 days after the date of the enactment of this Act.

SEC. 140. STUDY ON MODIFICATIONS TO SCHEDULES L AND M–1.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on proposals to modify tax schedules L and M–1 of Form 1120 to require the disclosure of additional information, such as the items described in subsection (b).

(b) ITEMS OF DISCLOSURE.—The items described in this subsection is as follows:

(1) The parent company names and identification numbers for both tax and book purposes.

(2) An asset reconciliation of consolidated book assets on the public financial disclosures with the consolidated tax return.

(3) Worldwide net income from public financial disclosures.

(4) The components of tax expense presently recorded in financial statement tax footnotes.

(5) The reconciliation of the book income of entities included in the consolidated financial statement with book income included in the consolidated tax return.

(6) The adjustment for book income from domestic and foreign entities excluded from financial reporting but included for tax reconciliation.

(7) The book income of United States entities included in the United States consolidated return.

(8) Taxable income due to actual or deemed dividends from foreign subsidiaries.

(9) A reconciliation which should reflect pretax book income of United States consolidated tax group plus taxable deemed or actual foreign repatriations.

(10) The differences in the reporting of income and expense between book and tax reporting, including specific reporting on pension expense, stock options, and the amortization of goodwill.

(11) Other reconciliation items in a consistent manner among all entities.

(c) PUBLIC AVAILABILITY OF SPECIFIED INFORMATION.—Not later than 1 year after the date of the enactment of this Act, the Securities and Exchange Commission and the Commissioner of Internal Revenue shall each report to the Committee on Finance of the Senate and the Committee

on Ways and Means of the House of Representatives on proposals to expand the public availability and clarity of information relating to book and tax differences and Federal tax liability with respect to corporations.

SEC. 141. REGULATION OF FEDERAL INCOME TAX RETURN PREPARERS AND REFUND ANTICIPATION LOAN PROVIDERS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 7530. FEDERAL INCOME TAX RETURN PREPARERS AND REFUND ANTICIPATION LOAN PROVIDERS.

"(a) REGISTRATION.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary—

"(A) to require the registration of Federal income tax return preparers and refund anticipation loan providers with the Secretary or the designee of the Secretary, and

"(B) to prohibit the payment of a refund of tax to a Federal income tax return preparer or refund anticipation loan provider that is the result of a tax return which is prepared by such

preparer or provider which does not include the preparer's or provider's registration number.

"(2) NO DISCIPLINARY ACTION.—The regulations under paragraph (1) shall require that an applicant for registration must not have demonstrated any conduct that would warrant disciplinary action under part 10 of title 31, Code of Federal Regulations.

"(3) BURDEN OF REGISTRATION.—In promulgating the regulations under paragraph (1), the Secretary shall minimize the burden and cost on the registrant.

"(b) EXAMINATION.—In promulgating the regulations under subsection (a)—

"(1) IN GENERAL.—The Secretary shall develop a series of examinations designed to test the technical knowledge and competency of each applicant for registration to prepare Federal tax returns, including an examination testing knowledge of individual income tax return preparation, including the earned income tax credit under section 32.

"(2) INITIAL EXAMINATION.—The Secretary shall require that each applicant for registration pass an initial examination testing the applicant's technical knowledge and competency to prepare individual and business Federal income tax returns.

"(c) RULES OF CONDUCT.—All registrants shall be subject to rules of conduct that are consistent with the rules that govern any federally authorized tax practitioner within the meaning of section 7525(a)(3)(A).

"(d) DISCLOSURE OF INFORMATION.—The Secretary shall provide guidance on the manner and timing of disclosure to taxpayers of information relating to fees and interest rates imposed in connection with loans made to taxpayers by refund anticipation loan providers.

"(e) ANNUAL RENEWAL OF REGISTRATION.—

"(1) IN GENERAL.—The regulations under subsection (a) shall require an annual renewal of registration and shall set forth the manner in which a registered Federal income tax return preparer or refund anticipation loan provider must renew such registration.

"(2) ANNUAL EXAMINATIONS.—As part of the annual registration, such regulations shall require that each registrant pass an annual refresher examination (including tax law updates).

"(f) FEES.—

"(1) IN GENERAL.—The Secretary may require the payment of reasonable fees for registration and for renewal of registration under the regulations promulgated under subsection (a).

"(2) PURPOSE OF FEES.—Any fees described in paragraph (1) shall be available without fiscal year limitation to the Secretary for the purpose of reimbursement of the costs of administering the requirements of the regulations.

"(g) FEDERAL INCOME TAX RETURN PREPARER.—For purposes of this section—

"(1) IN GENERAL.—The term 'Federal income tax return preparer' means any individual who is an income tax return preparer (within the meaning of section 7701(a)(36)) who prepares not less than 5 returns of tax imposed by subtitle A or claims for refunds of tax imposed by subtitle A per taxable year.

"(2) EXCEPTION.—Such term shall not include a federally authorized tax practitioner (as defined in section 7525(a)(3)(A).

"(h) REFUND ANTICIPATION LOAN PROVIDER.—For purposes of this section, the term 'refund anticipation loan provider' means a person who makes a loan of money or of any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund.".

(b) PROHIBITION.—

(1) IN GENERAL.—Section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is

amended by adding at the end the following new subsection:

"(h) ACTIONS ON A TAXPAYER'S BEHALF BY A NON-REGISTERED PERSON.—Any person not registered pursuant to the regulations promulgated by the Secretary under section 7530 who—

"(1) prepares a tax return for another taxpayer, or

"(2) provides a loan of money or of any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund,

shall be subject to a $500 penalty for each incident of noncompliance.".

(2) USE OF PENALTIES.—There is authorized to be appropriated and is appropriated to the Secretary of the Treasury for each fiscal year for the administration of the requirements of the regulations promulgated under section 7530 of the Internal Revenue Code of 1986 an amount equal to the penalties imposed under section 6695(h) of such Code for the preceding fiscal year.

(c) COORDINATION WITH SECTION 6060(a).—The Secretary of the Treasury shall coordinate the registration required under the regulations promulgated under section

7530 of the Internal Revenue Code of 1986 with the return requirements of section 6060 of such Code.

(d) PUBLIC AWARENESS CAMPAIGN.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a public information and consumer education campaign, utilizing paid advertising, to inform the public of the requirements that Federal income tax return preparers (as defined in section 7530(g) of the Internal Revenue Code of 1986) must sign the return prepared for a fee and display notice of their registration under the regulations promulgated under section 7530 of such Code.

(2) PUBLIC LIST.—The Secretary of the Treasury shall maintain a public list (in print and electronic media, including Internet-based) of Federal income tax return preparers (as so defined) who are so registered and whose registration has been revoked.

(3) NOTIFICATION.—The Secretary of the Treasury shall notify any taxpayer if such taxpayer's return was prepared by such an unregistered Federal income tax return preparer .

(e) ADDITIONAL FUNDS AVAILABLE FOR COMPLIANCE ACTIVITIES.—The Secretary of the Treasury may use any specifically appropriated funds for earned income tax credit compliance to improve and expand enforcement of Federal

income tax preparers under the regulations promulgated under section 7530 of the Internal Revenue Code of 1986.

(f) CLERICAL AMENDMENT.—The table of sections for chapter 77, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 7530. Federal income tax return preparers and refund anticipation loan providers.".

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

Subtitle C—Other Provisions

SEC. 151. PENALTY FOR FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

"(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) AMOUNT OF PENALTY.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) AMOUNT.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 152. REPEAL OF APPLICATION OF BELOW-MARKET LOAN RULES TO AMOUNTS PAID TO CERTAIN CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Section 7872(c)(1) (relating to below-market loans to which section applies) is amended—

(1) by striking subparagraph (F), and

(2) by striking "(C), or (F)" in subparagraph (E) and inserting "or (C)".

(b) FULL EXCEPTION.—Section 7872(g) (relating to exception for certain loans to qualified continuing care facilities) is amended—

(1) by striking "made by a lender to a qualified continuing care facility pursuant to a continuing

care contract" in paragraph (1) and inserting "owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and",

(2) by striking "increased personal care services or" in paragraph (3)(C),

(3) by adding at the end of paragraph (3) the following new flush sentence:

"The Secretary shall issue guidance which limits such term to contracts which provide to an individual or individual's spouse only facilities, care, and services described in this paragraph which are customarily offered by continuing care facilities.",

(4) by inserting "independent living unit" after "all of the" in paragraph (4)(A)(ii),

(5) by striking paragraphs (2) and (5),

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and

(7) by striking "CERTAIN" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2004.

TITLE II—REFORM OF PENALTY AND INTEREST

SEC. 201. INDIVIDUAL ESTIMATED TAX.

(a) INCREASE IN EXCEPTION FOR INDIVIDUALS OWING SMALL AMOUNT OF TAX.—Section 6654(e)(1) (relating to exception where tax is small amount) is amended by striking "$1,000" and inserting "$2,000".

(b) COMPUTATION OF ADDITION TO TAX.—Subsections (a) and (b) of section 6654 (relating to failure by individual to pay estimated taxes) are amended to read as follows:

"(a) ADDITION TO THE TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual for a taxable year, there shall be added to the tax under chapters 1 and 2 for the taxable year the amount determined under paragraph (2) for each day of underpayment.

"(2) AMOUNT.—The amount of the addition to tax for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; UNDERPAYMENT RATE.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) DETERMINATION OF UNDERPAYMENT RATE.—

"(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

"(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a

daily basis and shall be based on the assumption of 365 days in a calendar year.

"(3) TERMINATION OF ESTIMATED TAX UNDERPAYMENT.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estimated tax payments made for taxable years beginning after December 31, 2004.

SEC. 202. CORPORATE ESTIMATED TAX.

(a) INCREASE IN SMALL TAX AMOUNT EXCEPTION.—Section 6655(f) (relating to exception where tax is small amount) is amended by striking "$500" and inserting "$1,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 203. INCREASE IN LARGE CORPORATION THRESHOLD FOR ESTIMATED TAX PAYMENTS.

(a) IN GENERAL.—Section 6655(g)(2) (defining large corporation) is amended—

(1) by striking "$1,000,000" in subparagraph (A) and inserting "the applicable amount",

(2) by striking "the $1,000,000 amount specified in subparagraph (A)" in subparagraph (B)(ii) and inserting "the applicable amount",

(3) by redesignating subparagraph (B) as subparagraph (C), and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) APPLICABLE AMOUNT.—For purposes of this paragraph, the applicable amount is $1,000,000 increased (but not above $1,500,000) by $50,000 for each taxable year beginning after 2004.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. ABATEMENT OF INTEREST.

(a) ABATEMENT OF INTEREST FOR PERIODS ATTRIBUTABLE TO ANY UNREASONABLE IRS ERROR OR DELAY.—Section 6404(e)(1) is amended—

(1) by striking "in performing a ministerial or managerial act" in subparagraphs (A) and (B),

(2) by striking "deficiency" in subparagraph (A) and inserting "underpayment of any tax, addition to tax, or penalty imposed by this title", and

(3) by striking "tax described in section 6212(a)" in subparagraph (B) and inserting "tax, addition to tax, or penalty imposed by this title".

(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "PENALTY OR ADDITION" and inserting "INTEREST, PENALTY, OR ADDITION"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 205. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) PAYMENT OF INTEREST.—

"(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary,

rules similar to the rules of section 6611(b)(2) shall apply.

"(2) DISPUTABLE TAX.—

"(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

"(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for dis-

allowing the taxpayer's treatment of such item.

"(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) USE OF DEPOSITS.—

"(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the

date which is 1 year after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or the Secretary's delegate on the date which is 1 year after the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 206. FREEZE OF PROVISIONS REGARDING SUSPENSION OF INTEREST WHERE SECRETARY FAILS TO CONTACT TAXPAYER.

(a) IN GENERAL.—Section 6404(g) (relating to suspension of interest and certain penalties where Secretary fails to contact taxpayer) is amended by striking "1-year period (18-month period in the case of taxable years beginning before January 1, 2004)" both places it appears and inserting "18-month period".

(b) ADDITIONAL EXCEPTION.—Section 6404(g)(2) (relating to exceptions) is amended by striking "or" at the end of subparagraph (C), by redesignating subparagraph

(D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

"(D) any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement; or".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 207. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

SEC. 208. FRIVOLOUS TAX RETURNS AND SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under

paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Sec-

retary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking

the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 209. EXTENSION OF NOTICE REQUIREMENTS WITH RESPECT TO INTEREST AND PENALTY CALCULATIONS.

Sections 3306(c) and 3308(c) of the Internal Revenue Service Restructuring and Reform Act of 1998 are each amended by inserting "and during the period beginning on the date of the enactment of the Tax Administration Good Government Act, and ending before July 1, 2006," after "July 1, 2003,".

SEC. 210. EXPANSION OF INTEREST NETTING.

(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after December 31, 2010.

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

SEC. 301. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date of the enactment of this Act.

SEC. 302. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) any proceeding under section 7436(c), and".

(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking "or (4)" and inserting "(4), or (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 303. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of

the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 304. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows "petition" and inserting a period.

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

SEC. 305. AMENDMENTS TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

"(a) APPOINTMENT AND COMPENSATION.—

"(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

"(2) LAW CLERKS AND SECRETARIES.—

"(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the

provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

"(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

"(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

"(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate em-

ployees at rates consistent with those for employees holding comparable positions in the judicial branch.

"(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

"(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

"(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

"(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

"(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

"(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

"(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

"(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

"(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

"(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

"(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

"(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous

service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

"(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

"(A) include the principles set forth in section 2301(b) of title 5, United States Code;

"(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

"(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 306. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end "and to provide services to pro se taxpayers".

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

Subtitle B—Tax Court Pension and Compensation

SEC. 311. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(h) ENTITLEMENT TO ANNUITY.—

"(1) IN GENERAL.—

"(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the

later, in an amount computed as provided in subsection (m).

"(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 20 percent of such average annual salary, divided by the number of such children.

"(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 40 percent of such average annual salary, divided by the number of such children.

"(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

"(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

"(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

"(3) TERMINATION OF ANNUITY.—

"(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such sur-

viving spouse's remarriage before attaining age 55.

"(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

"(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

"(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose

annuity was so terminated had not survived such judge.

"(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

"(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

"(B) the amount of such salary deductions that were actually made before the date of the judge's death.".

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.".

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(i) DETERMINATIONS BY CHIEF JUDGE.—

"(1) DEPENDENCY AND DISABILITY.—",

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

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.".

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(m) COMPUTATION OF ANNUITIES.—

"(1) IN GENERAL.—",

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

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less

than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.".

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

"(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.".

SEC. 312. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be in-

creased at the same time by the same percentage by which annuities are increased under such section 8340(b).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 313. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

"(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.

SEC. 314. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.".

SEC. 315. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

"(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current

annual leave standing to the individual's credit as certified by the agency from which the individual resigned.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 316. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(k) THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

"(i) retires under subsection (b), or

"(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

"(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only

begin to participate in the Thrift Savings Plan at the next open season beginning after such date.

SEC. 317. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 318. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

"SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.".

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

"(a) APPOINTMENT, TENURE, AND REMOVAL.—

"(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

"(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered,

a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.".

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking "90" and inserting "92".

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

"(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

"(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

"(2) TREATMENT OF UNUSED LEAVE.—

"(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit

when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

"(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

"(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5,

United States Code, and related provisions referred to in such section.".

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking "SPECIAL TRIAL JUDGES" and inserting "MAGISTRATE JUDGES OF THE TAX COURT".

(2) Section 7443A(b) is amended by striking "special trial judges of the court" and inserting "magistrate judges of the Tax Court".

(3) Subsections (c) and (d) of section 7443A are amended by striking "special trial judge" and inserting "magistrate judge of the Tax Court" each place it appears.

(4) Section 7443A(e) is amended by striking "special trial judges" and inserting "magistrate judges of the Tax Court".

(5) Section 7456(a) is amended by striking "special trial judge" each place it appears and inserting "magistrate judge".

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting "MAGISTRATE JUDGES OF THE TAX COURT.—", and

(B) by striking "special trial judges" and inserting "magistrate judges".

SEC. 319. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

"(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.".

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

"(b) ELECTION.—

"(1) JUDGES.—",

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

(3) by adding at the end the following new paragraph:

"(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

"(A) 6 months after the date of the enactment of this paragraph,

"(B) the date the judge takes office, or

"(C) the date the judge marries.".

(c) CONFORMING AMENDMENTS.—

*(1) The heading of section 7448 is amended by inserting "**AND MAGISTRATE JUDGES**" after "**JUDGES**".*

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting "and magistrate judges" after "judges".

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting "or magistrate judge" after "judge" each place it appears other than in the phrase "chief judge", and

(B) by inserting "or magistrate judge's" after "judge's" each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers",

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and

(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsections (a)(4) and (a)(6)".

(5) Section 7448(g) is amended by inserting "or section 7443B" after "section 7447" each place it appears, and by inserting "or an annuity" after "retired pay".

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired",

and by inserting ", or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code," after "section 7447", and

(B) in the last sentence, by striking "subsections (a)(6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting "or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code" after "7447(d)", and

(B) by inserting "or 7443B(m)(1)(B) after "7447(f)(4)".

(8) Section 7448(n) is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court,".

(9) Section 3121(b)(5)(E) is amended by inserting "or magistrate judge" before "of the United States Tax Court".

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or magistrate judge" before "of the United States Tax Court".

SEC. 320. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

"SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

"(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

"(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

"(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

"(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

"(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by 1/6 of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

"(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who

has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

"(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

"(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

"(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this

section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

"(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

"(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

"(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

"(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

"(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

"(C) retired pay under section 7447, or

"(D) retired pay under section 7296 of title 38, United States Code.

"(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

"(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

"(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

"(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

"(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

"(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

"(2) each month of service shall be credited as 1/12 of a year, and the fractional part of any month shall not be credited.

"(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier

than 9½ years before the date of the enactment of this subsection.

"(i) PAYMENTS PURSUANT TO COURT ORDER.—

"(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

"(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or

the Virgin Islands, and any Indian tribal court or courts of Indian offense.

"(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

"(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

"(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from

salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

"(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

"(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

"(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

"(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

"(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

"(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

"(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

"(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

"(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

"(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

"(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

"(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect

on the first day of the first month following the month in which the election is made.

"(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

"(n) LUMP-SUM PAYMENTS.—

"(1) ELIGIBILITY.—

"(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

"(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

"(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

"(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

"(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

"(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the

terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

"(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

"(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

"(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

"(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

"(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

"(2) SPOUSES AND FORMER SPOUSES.—

"(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

"(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

"(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

"(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

"(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

"(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

"(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge re-

ceives 2 or more orders or decrees described in subparagraph (A).

"(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

"(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less, or

"(ii) for the fractional part of a month in the total service.

"(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

"(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3) UNFUNDED LIABILITY.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable

from the Tax Court Judicial Officers' Retirement Fund over the sum of—

"(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

"(ii) the balance in the Fund as of the date the unfunded liability is determined.

"(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 321 of the Tax Administration Good Government Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the

provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

"(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 321 of the Tax Administration Good Government Act,

"(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 321 of the Tax Administration Good Government Act, or

"(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 321 of the Tax Administration Good Government Act.

"(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 321 of the Tax Administration Good Government Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

"(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount

equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

"(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) CONFORMING AMENDMENT.—The table of section for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

"Sec. 7443B. Retirement for magistrate judges of the Tax Court.".

SEC. 321. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of

such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the

Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code.

Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 322. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

"(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

"(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

"(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

"(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

"(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

"Sec. 7443C. Recall of magistrate judges of the Tax Court.".

SEC. 323. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

(a) IN GENERAL.—Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

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

SEC. 402. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking "in writing" the first place it appears.

(b) ELIMINATION OF REPORTING REQUIREMENT.—Section 7803(d)(1) (relating to annual reporting), as amended by this Act, is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), (E), (F), (G), and (H) as subparagraphs (B), (C), (D), (E), (F), and (G), respectively.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to requests made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to reports made after the date of the enactment of this Act.

SEC. 403. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking "TREASURY.—Returns and return information" and inserting "TREASURY.—

"(A) IN GENERAL.—Returns and return information", and

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

"(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return or return information of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return or return information of such representative on a basis other than by reason of such relationship.".

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

SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting "(other than the taxpayer's TIN)" after "Return information".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 405. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Fed-

eral, State, or local agency unless such agency, to the satisfaction of the Secretary—

"(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor or other agent to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary for the most recent annual period that such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration

of such contract or agreement. The requirements of this paragraph shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting "or paragraph (9)" after "subparagraph (A)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after the date of the enactment of this Act.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to the portion of calendar year 2004 following the date of the enactment of this Act.

SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended—

(1) by striking "TAXPAYER.—The Secretary" and inserting "TAXPAYER.—

"(1) IN GENERAL.—The Secretary", and

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

"(2) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—The return of any taxpayer, or return information with respect to such taxpayer, disclosed to a person or persons under paragraph (1) for a purpose specified in writing, electronically, or orally may be disclosed or used by such person or persons only for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified and shall not be disclosed or used for any other purpose.

"(3) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for written requests and consents which shall—

"(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

"(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

"(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.

"(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (2), see section 7431(i).".

(b) CIVIL DAMAGES.—Section 7431 (relating to civil damages for unauthorized inspection or disclosure of returns and return information) is amended by adding at the end the following new subsection:

"(i) DISCLOSURE OR USE OF RETURNS AND RETURN INFORMATION OBTAINED UNDER SUBSECTION 6103(c).—Disclosure or use of returns or return information obtained under section 6103(c) other than for the purpose of, and to the extent necessary in, accomplishing the purpose for disclosure specified in writing, electronically, or orally, shall be treated as a violation of section 6103(a).".

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Secretary of the Treasury considers necessary or appropriate to better achieve the purposes of this section.

(d) SUNSET OF EXISTING CONSENTS.—Notwithstanding any other provision of law, any request for or consent to disclose any return or return information under section 6103(c) of the Internal Revenue Code of 1986 made before the date of the enactment of this Act shall remain in effect until the earlier of the date such request or consent is otherwise terminated or the date which is 3 years after such date of enactment.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after the date which is 3 months after the date of the enactment of this Act.

SEC. 407. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OR INSPECTION.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Internal Revenue Service or, upon notice to the Secretary by a Federal or State agency, if such Federal or State agency, proposes an administrative determination as to disciplinary or adverse action against an employee arising from the employee's unauthorized inspection or disclosure of the taxpayer's return or return information. The notice described in this subsection shall include the date of the inspection or disclosure and the rights of the taxpayer under such administrative determination.".

(b) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—Section 7431, as amended by this Act, is amended by adding at the end the following new subsection:

"(j) EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED.—A judgment for damages shall not be awarded under subsection (c) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff.".

(c) PAYMENT AUTHORITY CLARIFIED.—

(1) IN GENERAL.—Section 7431, as amended by subsection (b), is amended by adding at the end the following new subsection:

"(k) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.".

(2) ANNUAL REPORTS OF PAYMENTS.—The Secretary of the Treasury shall annually report to the Committee of Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding payments made from the United States Judgment Fund under section 7431(k) of the Internal Revenue Code of 1986.

(d) BURDEN OF PROOF FOR GOOD FAITH EXCEPTION RESTS WITH INDIVIDUAL MAKING INSPECTION OR DISCLOSURE.—Section 7431(b) (relating to exceptions) is amended by adding at the end the following new flush sentence:

"In any proceeding involving the issue of the existence of good faith, the burden of proof with respect to such issue shall be on the individual who made the inspection or disclosure.".

(e) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by this Act, is amended by adding at the end the following new paragraph:

"(10) REPORT ON WILLFUL UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the willful unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(c) EFFECTIVE DATES.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date which is 180 days after the date of the enactment of this Act.

(2) EXHAUSTION OF REMEDIES AND BURDEN OF PROOF.—The amendments made by subsections (b) and (d) shall apply to inspections and disclosures occurring on and after the date which is 180 days after the date of the enactment of this Act.

(3) PAYMENT AUTHORITY.—The amendment made by subsection (c)(1) shall take effect on the date

which is 180 days after the date of the enactment of this Act.

(4) REPORTS.—The amendment made by subsection (e) shall apply to calendar years ending after the date which is 180 days after the date of the enactment of this Act.

SEC. 408. EXPANSION OF DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B)(i) (relating to danger of death or physical injury) is amended by striking "or State law enforcement agency" and inserting ", State, or local law enforcement agency".

(b) CONFORMING AMENDMENTS.—Section 6103(p)(4) is amended—

(1) by striking "(i)(3)(B)(i) or (7)(A)(ii)" and inserting "(i)(7)(A)(ii)", and

(2) by striking ", (i)(3)(B)(i),".

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

SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) IN GENERAL.—Section 6103(m)(1) (relating to tax refunds) is amended by striking "taxpayer identity information to the press and other media" and by inserting "a

person's name and the city, State, and zip code of the person's mailing address to the press, other media, and through any other means of mass communication,".

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

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

"(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

"(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return

information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

"(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to

inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general,

"(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

"(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting "or any appropriate State officer who has or had access to returns or return information under section 6104(c)" after "this section" in paragraph (2), and

(B) by striking "or subsection (n)" in paragraph (3) and inserting "subsection (n), or section 6104(c)".

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18) or any appropriate State officer (as defined in section 6104(c))".

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting "FOR CHARITABLE ORGANIZATIONS".

(5) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(6) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(7) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

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

SEC. 411. TREATMENT OF PUBLIC RECORDS.

(a) IN GENERAL.—Section 6103(b) (relating to definitions) is amended by adding at the end the following new paragraph:

"(12) TREATMENT OF PUBLIC RECORDS.—Returns and return information shall not be subject to subsection (a) if disclosed—

"(A) in the course of any judicial or administrative proceeding or pursuant to tax administration activities, and

"(B) properly made part of the public record.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 412. EMPLOYEE IDENTITY DISCLOSURES.

(a) IN GENERAL.—Section 6103 (confidentiality and disclosure of returns and return information) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) EMPLOYEE IDENTITY DISCLOSURES.—Nothing in this section may be construed to prohibit agents of the Department of the Treasury from identifying themselves, their organizational affiliation, and the nature of an investigation when contacting third parties in writing or in person.".

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

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

SEC. 413. TAXPAYER IDENTIFICATION NUMBER MATCHING.

(a) IN GENERAL.—Section 6103(k) (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following new paragraph:

"(10) TIN MATCHING.—The Secretary may disclose to any person required to provide a TIN (as defined in section 7701(a)(41)) to the Secretary whether such information matches records maintained by the Secretary.".

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

SEC. 414. FORM 8300 DISCLOSURES.

(a) IN GENERAL.—Section 6103(p)(4) (relating to safeguards) is amended by striking "(15)," both places it appears.

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

SEC. 415. DISCLOSURE TO LAW ENFORCEMENT AGENCIES REGARDING TERRORIST ACTIVITIES.

(a) IN GENERAL.—Section 6103(i)(7)(A) (relating to disclosure to law enforcement agencies) is amended by adding at the end the following new clause:

> *"(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.".*

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

TITLE V—SIMPLIFICATION

Subtitle A—Uniform Definition of Child

SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 is amended to read as follows:

"SEC. 152. DEPENDENT DEFINED.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

> *"(1) a qualifying child, or*
>
> *"(2) a qualifying relative.*

"(b) EXCEPTIONS.—For purposes of this section—

"(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

"(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

"(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

"(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

"(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

"(ii) the taxpayer is a citizen or national of the United States.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(C) who meets the age requirements of paragraph (3), and

"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to

the taxpayer described in this paragraph if such individual is—

"(A) a child of the taxpayer or a descendant of such a child, or

"(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

"(3) AGE REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

"(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

"(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

"(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

"(i) a parent of the individual, or

"(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

"(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

"(i) the parent with whom the child resided for the longest period of time during the taxable year, or

"(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

"(d) QUALIFYING RELATIVE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

"(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

"(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

"(A) A child or a descendant of a child.

"(B) A brother, sister, stepbrother, or stepsister.

"(C) The father or mother, or an ancestor of either.

"(D) A stepfather or stepmother.

"(E) A son or daughter of a brother or sister of the taxpayer.

"(F) A brother or sister of the father or mother of the taxpayer.

"(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

"(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support,

"(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

"(C) the taxpayer contributed over 10 percent of such support, and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attrib-

utable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

"(A) payments to a spouse which are includible in the gross income of such spouse under

section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

"(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(e) SPECIAL RULE FOR DIVORCED PARENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

"(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

"(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

"(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

"(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

"(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, or

"(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of subparagraph (B), amounts expended for the support of a child or children shall be treated

as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

"(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

"(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

"(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) CHILD DEFINED.—

"(A) IN GENERAL.—The term 'child' means an individual who is—

"(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

"(ii) an eligible foster child of the taxpayer.

"(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

"(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

"(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

"(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

"(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

"(A) a child of the taxpayer, and

"(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account.

"(6) TREATMENT OF MISSING CHILDREN.—

"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

"(i) the deduction under section 151(c),

"(ii) the credit under section 24 (relating to child tax credit),

"(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

"(iv) the earned income credit under section 32.

"(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by

someone who is not a member of the family of such child or the taxpayer, and

"(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

"(7) CROSS REFERENCES.—

"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".

SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

"(i) a qualifying child of the individual (as defined in section 152(c), deter-

mined without regard to section 152(e)), but not if such child—

"(I) is married at the close of the taxpayer's taxable year, and

"(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or".

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

"(i) subparagraph (H) of section 152(d)(2), or

"(ii) paragraph (3) of section 152(d).".

SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) is amended by striking "In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))" and inserting "In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual".

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

"(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

"(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

"(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.".

SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

"(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.".

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking "the first sentence of section 152(b)(3)" and inserting "subparagraph (A) of section 152(b)(3)".

SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

"(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

"(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

"(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking "(3)(E)" and inserting "(3)(C)".

(3) Section 32(m) is amended by striking "subsections (c)(1)(F)" and inserting "subsections (c)(1)(E)".

SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 is amended to read as follows:

"(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.".

SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(2) Section 21(e)(5) is amended—

(A) by striking "paragraph (2) or (4) of" in subparagraph (A), and

(B) by striking "within the meaning of section 152(e)(1)" and inserting "as defined in section 152(e)(3)(A)".

(3) Section 21(e)(6)(B) is amended by striking "section 151(c)(3)" and inserting "section 152(f)(1)".

(4) Section 25B(c)(2)(B) is amended by striking "151(c)(4)" and inserting "152(f)(2)".

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking "paragraphs (1) through (8) of section 152(a)" both places it ap-

pears and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(B) Section 51(i)(1)(C) is amended by striking "152(a)(9)" and inserting "152(d)(2)(H)".

(6) Section 72(t)(2)(D)(i)(III) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(7) Section 72(t)(7)(A)(iii) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(8) Section 42(i)(3)(D)(ii)(I) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(9) Subsections (b) and (c)(1) of section 105 are amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(10) Section 120(d)(4) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(11) Section 125(e)(1)(D) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(12) Section 129(c)(2) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(13) The first sentence of section 132(h)(2)(B) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(14) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(16) Section 170(g)(3) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(17) Section 213(a) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(18) The second sentence of section 213(d)(11) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(19) Section 220(d)(2)(A) is amended by inserting ", determined without regard to subsections

(b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(20) Section 221(d)(4) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(21) Section 529(e)(2)(B) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(22) Section 2032A(c)(7)(D) is amended by striking "section 151(c)(4)" and inserting "section 152(f)(2)".

(23) Section 2057(d)(2)(B) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(24) Section 7701(a)(17) is amended by striking "152(b)(4), 682," and inserting "682".

(25) Section 7702B(f)(2)(C)(iii) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(26) Section 7703(b)(1) is amended—

(A) by striking "151(c)(3)" and inserting "152(f)(1)", and

(B) by striking "paragraph (2) or (4) of".

SEC. 508. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 2004.

Subtitle B—Simplification Through Elimination of Inoperative Provisions

SEC. 511. SIMPLIFICATION THROUGH ELIMINATION OF INOPERATIVE PROVISIONS.

(a) IN GENERAL.—

(1) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—Paragraph (7) of section 1(f) is amended to read as follows:

"(7) SPECIAL RULE FOR CERTAIN BRACKETS.—In prescribing tables under paragraph (1) which apply to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate bracket begins shall be determined under paragraph (3) by substituting '1993' for '1992'.".

(2) CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.—Section 29 is amended by striking subsection (e) and by redesignating sub-

sections (f) and (g) as subsections (e) and (f), respectively.

(3) EARNED INCOME CREDIT.—Paragraph (1) of section 32(b) is amended—

(A) by striking subparagraphs (B) and (C), and

(B) in subparagraph (A) by striking "(A) IN GENERAL.—In the case of taxable years beginning after 1995" and moving the table 2 ems to the left.

(4) GENERAL BUSINESS CREDITS.—Subsection (d) of section 38 is amended by striking paragraph (3).

(5) CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.—Subsection (d) of section 39 is amended by striking paragraphs (1) through (8) and by redesignating paragraphs (9) and (10) as paragraphs (1) and (2), respectively.

(6) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—Clause (ii) of section 56(g)(4)(F) is amended by striking "In the case of any taxable year beginning after December 31, 1992, clause" and inserting "Clause".

(7) ITEMS OF TAX PREFERENCE; DEPLETION.—Paragraph (1) of section 57(a) is amended by striking

"Effective with respect to taxable years beginning after December 31, 1992, this" and inserting "This".

(8) INTANGIBLE DRILLING COSTS.—

(A) Clause (i) of section 57(a)(2)(E) is amended by striking "In the case of any taxable year beginning after December 31, 1992, this" and inserting "This".

(B) Clause (ii) of section 57(a)(2)(E) is amended by striking "(30 percent in the case of taxable years beginning in 1993)".

(9) ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.—Section 72 is amended—

(A) in subsection (c)(4) by striking "; except that if such date was before January 1, 1954, then the annuity starting date is January 1, 1954", and

(B) in subsection (g)(3) by striking "January 1, 1954, or" and ", whichever is later".

(10) ACCIDENT AND HEALTH PLANS.—Section 105(f) is amended by striking "or (d)".

(11) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106(c)(1) is amended by striking "Effective on and after January 1, 1997, gross" and inserting "Gross".

(12) CERTAIN COMBAT ZONE COMPENSATION OF MEMBERS OF THE ARMED FORCES.—Subsection (c) of section 112 is amended—

(A) by striking "(after June 24, 1950)" in paragraph (2), and

(B) striking "such zone;" and all that follows in paragraph (3) and inserting "such zone.".

(13) PRINCIPAL RESIDENCE.—Section 121(b)(3) is amended—

(A) by striking subparagraph (B); and

(B) in subparagraph (A) by striking "(A) IN GENERAL.—" and moving the text 2 ems to the left.

(14) CERTAIN REDUCED UNIFORMED SERVICES RETIREMENT PAY.—Section 122(b)(1) is amended by striking "after December 31, 1965,".

(15) GREAT PLAINS CONSERVATION PROGRAM.—Section 126(a) is amended by striking paragraph (6) and by redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

(16) MORTGAGE REVENUE BONDS FOR RESIDENCES IN FEDERAL DISASTER AREAS.—Section 143(k) is amended by striking paragraph (11).

(17) TREBLE DAMAGE PAYMENTS UNDER THE ANTITRUST LAW.—Section 162(g) is amended by striking the last sentence.

(18) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—Paragraph (4) of section 162(h) is amended by striking "For taxable years beginning after December 31, 1980, this" and inserting "This".

(19) HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer and the taxpayer's spouse and dependents.".

(20) INTEREST.—

(A) Section 163 is amended by striking paragraph (6) of subsection (d) and paragraph (5) (relating to phase-in of limitation) of subsection (h).

(B) Section 56(b)(1)(C) is amended by striking clause (ii) and by redesignating clauses

(iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively.

(21) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—Section 170 is amended by striking subsection (k).

(22) AMORTIZABLE BOND PREMIUM.—Subparagraph (B) of section 171(b)(1) is amended to read as follows:

"(B)(i) in the case of a bond described in subsection (a)(2), with reference to the amount payable on maturity or earlier call date, and

"(ii) in the case of a bond described in subsection (a)(1), with reference to the amount payable on maturity (or if it results in a smaller amortizable bond premium attributable to the period of earlier call date, with reference to the amount payable on earlier call date), and".

(23) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

(A) Section 172 is amended—

(i) by striking subparagraph (D) of subsection (b)(1) and by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (D), (E), (F), and (G), respectively,

(ii) by striking "ending after August 2, 1989" in subsection (b)(1)(D)(i)(II) (as redesignated by clause (i)),

(iii) by striking "subparagraph (F)" in subsection (b)(1)(G) (as redesignated by clause (i)) and inserting "subparagraph (E)",

(iv) by striking subsection (g), and

(v) by striking subparagraph (F) of subsection (h)(2).

(B) Section 172(h)(4) is amended by striking "subsection (b)(1)(E)" each place it appears and inserting "subsection (b)(1)(D)".

(C) Section 172(i)(3) is amended by striking "subsection (b)(1)(G)" each place it appears and inserting "subsection (b)(1)(F)".

(D) Section 172(j) is amended by striking "subsection (b)(1)(H)" each place it appears and inserting "subsection (b)(1)(G)".

(E) Section 172, as amended by subparagraphs (A) through (D) of this paragraph, is amended—

(i) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively,

(ii) by striking "subsection (h)" each place it appears and inserting "subsection (g)", and

(iii) by striking "subsection (i)" each place it appears and inserting "subsection (h)".

(24) RESEARCH AND EXPERIMENTAL EXPENDITURES.—Subparagraph (A) of section 174(a)(2) is amended to read as follows:

"(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this subsection for his first taxable year for which expenditures described in paragraph (1) are paid or incurred.".

(25) AMORTIZATION OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—Paragraph (2) of section 174(b)(2) is amended by striking "beginning after December 31, 1953".

(26) SOIL AND WATER CONSERVATION EXPENDITURES.—Paragraph (1) of section 175(d) is amended to read as follows:

"(1) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, adopt the method provided in this section for his first taxable year for

which expenditures described in subsection (a) are paid or incurred.".

(27) ACTIVITIES NOT ENGAGED IN FOR PROFIT.—Section 183(e)(1) is amended by striking the last sentence.

(28) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK; AND DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—

(A) Sections 244 and 247 are hereby repealed and the table of sections for part VIII of subchapter B of chapter 1 is amended by striking the items relating to sections 244 and 247.

(B) Paragraph (5) of section 172(d) is amended to read as follows:

"(5) COMPUTATION OF DEDUCTION FOR DIVIDENDS RECEIVED.—The deductions allowed by section 243 (relating to dividends received by corporations) and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) (relating to limitation on aggregate amount of deductions).".

(C) Paragraph (1) of section 243(c) is amended to read as follows:

"(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation, sub-

section (a)(1) shall be applied by substituting '80 percent' for '70 percent'.".

(D) Section 243(d) is amended by striking paragraph (4).

(E) Section 246 is amended—

(i) by striking ", 244," in subsection (a)(1),

(ii) in subsection (b)(1)—

(I) by striking "sections 243(a)(1), and 244(a)," the first place it appears and inserting "section 243(a)(1),",

(II) by striking "244(a)," the second place it appears therein, and

(III) by striking "subsection (a) or (b) of section 245, and 247," and inserting "and subsection (a) or (b) of section 245,", and

(iii) by striking ", 244," in subsection (c)(1).

(F) Section 246A is amended by striking ", 244," both places it appears in subsections (a) and (e).

(G) Sections 263(g)(2)(B)(iii), 277(a), 301(e)(2), 469(e)(4), 512(a)(3)(A), subpara-

graphs (A), (C), and (D) of section 805(a)(4), 805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii), 832(b)(5), 833(b)(3)(E), 1059(b)(2)(B), and 1244(c)(2)(C) are each amended by striking ", 244," each place it appears.

(H) Section 805(a)(4)(B) is amended by striking ", 244(a)," each place it appears.

(I) Section 810(c)(2)(B) is amended by striking "244 (relating to dividends on certain preferred stock of public utilities),".

(29) ORGANIZATION EXPENSES.—Section 248(c) is amended by striking "beginning after December 31, 1953," and by striking the last sentence.

(30) BOND REPURCHASE PREMIUM.—Section 249(b)(1) is amended by striking ", in the case of bonds or other evidences of indebtedness issued after February 28, 1913,".

(31) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY DISALLOWED.—Section 267(d) is amended by striking "(or by reason of section 24(b) of the Internal Revenue Code of 1939)" in paragraph (1), by striking "after December 31, 1953," in paragraph (2), by striking the second sentence, and by striking "or by reason of section 118 of the Internal Revenue Code of 1939" in the last sentence.

(32) ACQUISITIONS MADE TO EVADE OR AVOID INCOME TAX.—Paragraphs (1) and (2) of section 269(a) are each amended by striking "or acquired on or after October 8, 1940,".

(33) INTEREST ON INDEBTEDNESS INCURRED BY CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF ANOTHER CORPORATION.—Section 279 is amended—

(A) by striking "after December 31, 1967," in subsection (a)(2),

(B) by striking "after October 9, 1969," in subsection (b),

(C) by striking "after October 9, 1969, and" in subsection (d)(5), and

(D) by striking subsection (i) and by redesignating subsection (j) as subsection (i).

(34) SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.—Paragraph (4) of section 291(a) is amended by striking "In the case of taxable years beginning after December 31, 1984, section" and inserting "Section".

(35) QUALIFICATIONS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Section 409 is amended by striking subsections (a), (g), and (q).

(36) FUNDING STANDARDS.—Section 412(m)(4) is amended—

(A) by striking "the applicable percentage" in subparagraph (A) and inserting "25 percent", and

(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(37) RETIREE HEALTH ACCOUNTS.—Section 420 is amended—

(A) by striking paragraph (4) in subsection (b) and by redesignating paragraph (5) as paragraph (4), and

(B) by amending paragraph (2) of subsection (c) to read as follows:

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).".

(38) EMPLOYEE STOCK PURCHASE PLANS.—Section 423(a) is amended by striking "after December 31, 1963,".

(39) LIMITATION ON DEDUCTIONS FOR CERTAIN FARMING.—Section 464 is amended—

(A) by striking "any farming syndicate (as defined in subsection (c))" both places it appears in subsections (a) and (b) and inserting "any taxpayer to whom subsection (f) applies", and

(B) by striking subsection (g).

(40) DEDUCTIONS LIMITED TO AMOUNT AT RISK.—

(A) Paragraph (3) of section 465(c) is amended by striking "In the case of taxable years beginning after December 31, 1978, this" and inserting "This".

(B) Paragraph (2) of section 465(e)(2)(A) is amended by striking "beginning after December 31, 1978".

(41) NUCLEAR DECOMMISSIONING COSTS.—Section 468A(e)(2) is amended—

(A) by striking "at the rate set forth in subparagraph (B)" in subparagraph (A) and inserting "at a rate of 20 percent", and

(B) by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(42) PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.—

(A) Section 469 is amended by striking subsection (m).

(B) Subsection (b) of section 58 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(43) ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF ACCOUNTING.—Section 481(b)(3) is amended by striking subparagraph (C).

(44) EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.—Section 501 is amended by striking subsection (q).

(45) REQUIREMENTS FOR EXEMPTION.—

(A) Section 503(a)(1) is amended to read as follows:

"(1) GENERAL RULE.—An organization described in paragraph (17) or (18) of section 501(c) or described in section 401(a) and referred to in section 4975(g)(2) or (3) shall not be exempt from taxation

under section 501(a) if it has engaged in a prohibited transaction.".

(B) Paragraph (2) of section 503(a) is amended by striking "described in section 501(c)(17) or (18) or paragraph (a)(1)(B)" and inserting "described in paragraph (1)".

(C) Subsection (c) of section 503 is amended by striking "described in section 501(c)(17) or (18) or subsection (a)(1)(B)" and inserting "described in subsection (a)(1)".

(46) AMOUNTS RECEIVED BY SURVIVING ANNUITANT UNDER JOINT AND SURVIVOR ANNUITY CONTRACT.—Subparagraph (A) of section 691(d)(1) is amended by striking "after December 31, 1953, and".

(47) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—Section 692(a)(1) is amended by striking "after June 24, 1950".

(48) INSURANCE COMPANY TAXABLE INCOME.—

(A) Section 832(e) is amended by striking "of taxable years beginning after December 31, 1966,".

(B) Section 832(e)(6) is amended by striking "In the case of any taxable year beginning after December 31, 1970, the" and by inserting "The".

(49) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—Subparagraph (B) of section 871(a)(1) is amended to read as follows:

"(B) gains described in subsection (b) or (c) of section 631,".

(50) PROPERTY ON WHICH LESSEE HAS MADE IMPROVEMENTS.—Section 1019 is amended by striking the last sentence.

(51) INVOLUNTARY CONVERSION.—Section 1033 is amended by striking subsection (j) and by redesignating subsection (k) as subsection (j).

(52) PROPERTY ACQUIRED DURING AFFILIATION.—Section 1051 is repealed and the table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1051.

(53) HOLDING PERIOD OF PROPERTY.—

(A) Paragraph (5) of section 1223 is amended by striking "(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)".

(B) Paragraph (7) of section 1223 is amended by striking the last sentence.

(C) Paragraph (9) of section 1223 is repealed.

(54) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS.—Subparagraph (A) of section 1231(c)(2) is amended by striking "beginning after December 31, 1981".

(55) SALE OR EXCHANGE OF PATENTS.—Section 1235 is amended—

(A) by striking subsection (c) and by redesignating subsections (d) and (e) as (c) and (d), respectively, and

(B) by striking "(d)" in subsection (b) and inserting "(c)".

(56) DEALERS IN SECURITIES.—Subsection (b) of section 1236 is amended by striking "after November 19, 1951,".

(57) SALE OF PATENTS.—Subsection (a) of section 1249 is amended by striking "after December 31, 1962,".

(58) GAIN FROM DISPOSITION OF FARM LAND.—Paragraph (1) of section 1252(a) is amended by striking "after December 31, 1969," both places it appears.

(59) TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.—Subsection (c) of section 1271 is amended to read as follows:

"(c) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

"(1) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

"(A) an amount equal to the original issue discount, or

"(B) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

"(2) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

"(3) CROSS REFERENCE.—

"For current inclusion of original issue discount, see section 1272.".

(60) AMOUNT AND METHOD OF ADJUSTMENT.—Section 1314 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(61) ELECTION; REVOCATION; TERMINATION.—Clause (iii) of section 1362(d)(3) is amended by striking "unless" and all that follows and inserting "unless the corporation was an S corporation for such taxable year.".

(62) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 is amended by striking "the following percent" and all that follows and inserting "12.4 percent of the amount of the self-employment income for such taxable year.".

(63) HOSPITAL INSURANCE.—Subsection (b) of section 1401 is amended by striking "the following percent" and all that follows and inserting "2.9 percent of the amount of the self-employment income for such taxable year.".

(64) MINISTERS, MEMBERS OF RELIGIOUS ORDERS, AND CHRISTIAN SCIENCE PRACTITIONERS.—Paragraph (3) of section 1402(e) is amended by striking "whichever of the following dates is later: (A)"

and by striking "; or (B)" and all that follows and by inserting a period.

(65) WITHHOLDING OF TAX ON NONRESIDENT ALIENS.—The first sentence of subsection (b) of section 1441 and the first sentence of paragraph (5) of section 1441(c) are each amended by striking "gains subject to tax" and all that follows through "October 4, 1966" and inserting "and gains subject to tax under section 871(a)(1)(D)".

(66) AFFILIATED GROUP DEFINED.—Subparagraph (A) of section 1504(a)(3) is amended by striking "for a taxable year which includes any period after December 31, 1984" in clause (i) and by striking "in a taxable year beginning after December 31, 1984" in clause (ii).

(67) DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT.—

(A) Subsection (a) of section 1551 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Section 1551(b) is amended—

(i) by striking "or (2)" in paragraph (1), and

(ii) by striking "(a)(3)" in paragraph (2) and inserting "(a)(2)".

(68) DEFINITION OF WAGES.—Section 3121(b) is amended by striking paragraph (17).

(69) CREDITS AGAINST TAX.—

(A) Paragraph (4) of section 3302(f) is amended by striking "subsection—" and all that follows through "(A) IN GENERAL.—", by striking subparagraph (B), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and by moving the text of such subparagraphs (as so redesignated) 2 ems to the left.

(B) Paragraph (5) of section 3302(f) is amended by striking subparagraphs (D) and by redesignating subparagraph (E) as subparagraph (D).

(70) DOMESTIC SERVICE EMPLOYMENT TAXES.—Section 3510(b) is amended by striking paragraph (4).

(71) TAX ON FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—Section 4042(b)(2)(A) is amended to read as follows:

"(A) The Inland Waterways Trust Fund financing rate is 20 cents per gallon.".

(72) TRANSPORTATION BY AIR.—Section 4261(e) is amended—

(A) in paragraph (1) by striking subparagraph (C), and

(B) by striking paragraph (5).

(73) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942 is amended—

(A) by striking subsection (f)(2)(D),

(B) in subsection (g)(2)(A) by striking "For all taxable years beginning on or after January 1, 1975, subject" and inserting "Subject",

(C) in subsection (g) by striking paragraph (4), and

(D) in subsection (i)(2) by striking "beginning after December 31, 1969, and".

(74) TAXES ON TAXABLE EXPENDITURES.—Section 4945(f) is amended by striking "(excluding therefrom any preceding taxable year which begins before January 1, 1970)".

(75) RETURNS.—Subsection (a) of section 6039D is amended by striking "beginning after December 31, 1984,".

(76) INFORMATION RETURNS.—Subsection (c) of section 6060 is amended by striking "year" and all that follows and inserting "year.".

(77) ABATEMENTS.—Section 6404(f) is amended by striking paragraph (3).

(78) FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.—Clause (i) of section 6655(g)(4)(A) is amended by striking "(or the corresponding provisions of prior law)".

(79) RETIREMENT.—Section 7447(i)(3)(B)(ii) is amended by striking "at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter", and inserting "at 3 percent per annum".

(80) ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF JUDGES.—

(A) Paragraph (2) of section 7448(a) is amended by striking "or under section 1106 of the Internal Revenue Code of 1939" and by striking "or pursuant to section 1106(d) of the Internal Revenue Code of 1939".

(B) Subsection (g) of section 7448 is amended by striking "or other than pursuant to section 1106 of the Internal Revenue Code of 1939".

(C) Subsections (g), (j)(1), and (j)(2) of section 7448 are each amended by striking "at 4 percent per annum to December 31, 1947, and at

3 percent per annum thereafter" and inserting "at 3 percent per annum".

(81) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—Paragraph (4) of section 7518(g) is amended by striking "any nonqualified withdrawal" and all that follows through "shall be determined" and inserting "any nonqualified withdrawal shall be determined".

(82) VALUATION TABLES.—Paragraph (3) of section 7520(c) is amended—

(A) by striking "Not later than December 31, 1989, the" and inserting "The", and

(B) by striking "thereafter" in the last sentence thereof.

(83) ADMINISTRATION AND COLLECTION OF TAXES IN POSSESSIONS.—Section 7651 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(84) DEFINITION OF EMPLOYEE.—(A) Section 7701(a)(20) is amended by striking "chapter 21" and all that follows and inserting "chapter 21.".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), the amendments made by

subsection (a) shall take effect on the date of enactment of this Act.

(2) SAVINGS PROVISION.—If—

(A) any provision amended or repealed by subsection (a) applied to—

(i) any transaction occurring before the date of the enactment of this Act,

(ii) any property acquired before such date of enactment, or

(iii) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(B) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by subsection (a)) affect the liability for tax for periods ending after such date of enactment,

nothing in the amendments made by subsection (a) shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

TITLE VI—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 601. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

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

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of

the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction, or

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c),

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 602. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663

shall be treated as including references to a reportable transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the

requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement, if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.
"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 603. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

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

SEC. 604. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 605. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, im-

plementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 606. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 607. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

"(a) IMPOSITION OF PENALTY.—

"(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 608. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and

apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

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

SEC. 609. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "UNREALISTIC" in the heading and inserting "IMPROPER".

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 610. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 611. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 612. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 613. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO TAX-MOTIVATED TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 614. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

PART II—OTHER CORPORATE GOVERNANCE PROVISIONS

SEC. 621. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation § 1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 622. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL INCOME TAX RETURN OF A CORPORATION.

(a) IN GENERAL.—The Federal annual tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures to ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to the Federal annual tax return of a corporation with respect to income for taxable years ending after the date of the enactment of this Act.

SEC. 623. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

"(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or

agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 624. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 625. INCREASE IN CRIMINAL MONETARY PENALTY FOR INDIVIDUALS TO THE AMOUNT OF THE TAX AT ISSUE.

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

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

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

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6203(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

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

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

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

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. 626. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any un-

derpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his dele-

gate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

PART III—EXTENSION OF IRS USER FEES

SEC. 631. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

Calendar No. 498

108TH CONGRESS
2D SESSION

S. 882

[Report No. 108–257]

A BILL

To amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safeguards, and for other purposes.

MAY 4, 2004

Reported with an amendment