

109TH CONGRESS  
1ST SESSION

# S. 1921

To promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and replacing such taxes with a national sales tax and a business tax.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 26, 2005

Mr. DEMINT (for himself and Mr. GRAHAM) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and replacing such taxes with a national sales tax and a business tax.

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

3       **SECTION 1. TABLE OF CONTENTS.**

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**1 SEC. 2. CONGRESSIONAL FINDINGS.**

- 2** (a) Congress finds that the income tax—

1           (1) retards economic growth and has reduced  
2 the standard of living of the American public;

3           (2) impedes the international competitiveness of  
4 the United States industry;

5           (3) reduces savings and investment in the  
6 United States by taxing them multiple times;

7           (4) slows the capital formation necessary for  
8 real wages to steadily increase;

9           (5) lowers productivity;

10          (6) imposes unacceptable and unnecessary ad-  
11 ministrative and compliance costs on individual and  
12 business taxpayers;

13          (7) is unfair and inequitable;

14          (8) unnecessarily intrudes upon the privacy and  
15 civil rights of United States citizens;

16          (9) hides the true cost of government by embed-  
17 ding taxes in the costs of everything we buy;

18          (10) is not being complied with at satisfactory  
19 levels and therefore raises the tax burden on law  
20 abiding citizens; and

21          (11) impedes upward social mobility.

22       (b) Congress finds further that the estate and gift  
23 taxes—

24           (1) force family businesses and farms to be sold  
25 out of the family to pay tax;

1           (2) discourage capital formation and entrepre-  
2           neurship;

3           (3) foster the continued dominance of large en-  
4           terprises over small family-owned companies and  
5           farms; and

6           (4) impose unacceptably high tax planning costs  
7           on small businesses and farms.

8           (c) Congress finds further that a broad-based na-  
9           tional sales tax on goods and services purchased for final  
10          consumption—

11          (1) is similar in many respects to the sales and  
12          use taxes in place in 45 of the 50 States;

13          (2) will promote savings and investment;

14          (3) will promote fairness;

15          (4) will promote economic growth;

16          (5) will raise the standard of living of the  
17          American people;

18          (6) will increase investment;

19          (7) will enhance productivity and international  
20          competitiveness;

21          (8) will reduce administrative burdens on the  
22          American taxpayer;

23          (9) will improve upward social mobility; and

24          (10) will respect the privacy interests and civil  
25          rights of taxpayers.

1 (d) Congress finds that a business tax which imposes  
2 the same tax burden on foreign and United States pro-  
3 duced goods and services and is not biased against invest-  
4 ment—

5 (1) will promote savings and investment;

6 (2) will promote fairness;

7 (3) will promote economic growth;

8 (4) will raise the standard of living of the  
9 American people;

10 (5) will increase investment;

11 (6) will enhance productivity and international  
12 competitiveness;

13 (7) will reduce administrative burdens on the  
14 American taxpayer; and

15 (8) will improve upward social mobility.

16 (e) Congress further finds that—

17 (1) most of the practical experience admin-  
18 istering sales taxes is found at the State govern-  
19 mental level;

20 (2) it is desirable to harmonize Federal and  
21 State collection and enforcement efforts to the max-  
22 imum extent possible;

23 (3) it is sound tax administration policy to fos-  
24 ter administration and collection of the Federal sales

1 tax at the State level in return for a reasonable ad-  
2 ministration fee to the States; and

3 (4) businesses that must collect and remit taxes  
4 should receive reasonable compensation for the cost  
5 of doing so.

6 **TITLE I—REPEAL OF THE IN-**  
7 **COME TAX AND ESTATE AND**  
8 **GIFT TAXES**

9 **SEC. 101. INCOME TAXES REPEALED.**

10 Subtitle A of the Internal Revenue Code of 1986 (re-  
11 lating to income taxes and self-employment taxes) is here-  
12 by repealed.

13 **SEC. 102. ESTATE AND GIFT TAXES REPEALED.**

14 Subtitle B of the Internal Revenue Code of 1986 (re-  
15 lating to estate and gift taxes) is hereby repealed.

16 **SEC. 103. EFFECTIVE DATES; OTHER MATTERS.**

17 (a) Subtitle H of the Internal Revenue Code of 1986  
18 (relating to Financing of Presidential Election Cam-  
19 paigns) is hereby repealed.

20 (b) Subtitle C (relating to employment taxes) is re-  
21 designated as subtitle E.

22 (c) Subtitle D (relating to miscellaneous excise taxes)  
23 is redesignated as subtitle F.

24 (d) Subtitle E (relating to Alcohol, Tobacco and Cer-  
25 tain Other Excise Taxes) is redesignated as subtitle G.

1 (e) Subtitle F (relating to Procedure and Administra-  
2 tion) is redesignated as subtitle H.

3 (f) Subtitle G (relating to the Joint Committee on  
4 Taxation) is redesignated as subtitle L.

5 (g) References to provisions repealed by this Act shall  
6 be treated as references to such provisions as in effect on  
7 the day before the date of the enactment of this Act.

8 (h) EFFECTIVE DATES.—The amendments made by  
9 this Act shall take effect on January 1, 2007. The Internal  
10 Revenue Code of 1986 enacted October 22, 1986 as here-  
11 tofore, hereby, or hereafter amended may be cited as the  
12 “Internal Revenue Code of 2005”.

## 13 **TITLE II—GENERAL MATTERS**

### 14 **SEC. 201. GENERAL MATTERS.**

15 (a) IN GENERAL.—The Internal Revenue Code of  
16 1986 is amended by inserting at the beginning the fol-  
17 lowing new subtitle:

### 18 **“Subtitle A—General Matters**

“Chapter 1—Principles of interpretation; definitions.

### 19 **“CHAPTER 1—PRINCIPLES OF** 20 **INTERPRETATION; DEFINITIONS**

“Sec. 1. Principles of interpretation.

“Sec. 2. Definitions.

### 21 **“SEC. 1. PRINCIPLES OF INTERPRETATION.**

22 “(a) IN GENERAL.—Any court, the Secretary and  
23 any sales tax administering authority shall consider the

1 purposes of this title (as set forth in subsection (b)) as  
2 the primary aid in statutory construction.

3 “(b) PURPOSES.—

4 “(1) A purpose of this title is to raise revenue  
5 needed by the Federal Government in a manner con-  
6 sistent with the title’s other purposes.

7 “(2) A purpose of this title is to tax consump-  
8 tion of goods and services in the United States by  
9 means of the sales tax and the business tax.

10 “(3) A purpose of this title is to prevent double,  
11 multiple or cascading taxation.

12 “(4) A purpose of this title is to simplify the  
13 tax law and reduce the administration costs of, and  
14 the costs of compliance with, the tax law.

15 “(5) A purpose of this title is to provide for the  
16 administration of the tax law in a manner that re-  
17 spects—

18 “(A) privacy,

19 “(B) due process,

20 “(C) individual rights when interacting  
21 with the Government,

22 “(D) the presumption of innocence in  
23 criminal proceedings, and

24 “(E) the presumption of lawful behavior in  
25 civil proceedings.

1           “(6) A purpose of this title is to increase the  
2           role of State governments in Federal tax administra-  
3           tion because of State government expertise in sales  
4           tax administration.

5           “(7) A purpose of this title is to enhance gen-  
6           erally cooperation and coordination among State tax  
7           administrators and to enhance cooperation and co-  
8           ordination among State and Federal tax administra-  
9           tors, consistent with the principle of intergovern-  
10          mental tax immunity.

11          “(c) SECONDARY AIDS TO STATUTORY CONSTRUC-  
12          TION.—As a secondary aid in statutory construction, any  
13          court, the Secretary and any sales tax administering au-  
14          thority shall—

15                 “(1) consider the common law canons of statu-  
16                 tory construction,

17                 “(2) consider the meaning and construction of  
18                 concepts and terms used in the Internal Revenue  
19                 Code of 1986 as in force prior to the date of the en-  
20                 actment of this subtitle, and

21                 “(3) construe any ambiguities in this title in  
22                 favor of reserving powers to the States respectively,  
23                 or to the people.

1 **“SEC. 2. DEFINITIONS.**

2 “(a) **AFFILIATED FIRMS.**—A firm is affiliated with  
3 another if 1 firm owns 50 percent or more of—

4 “(1) the voting shares in a corporation, or

5 “(2) the capital interests of a business firm  
6 that is not a corporation.

7 “(b) **BUSINESS PURPOSE.**—The term ‘business pur-  
8 pose’ means a purpose reasonably designed or calculated  
9 to further the profitability of a trade or business, including  
10 without limitation for the purpose of using a good or serv-  
11 ice in that trade or business—

12 “(1) for resale,

13 “(2) to produce, provide, render or sell taxable  
14 property or services, or

15 “(3) in furtherance of other bona fide business  
16 purposes.

17 “(c) **CONFORMING STATE SALES TAX.**—The term  
18 ‘conforming State sales tax’ means a sales tax imposed  
19 by a State that adopts the same definition of taxable prop-  
20 erty and services as the tax imposed by this title.

21 “(d) **DESIGNATED COMMERCIAL PRIVATE COURIER**  
22 **SERVICE.**—The term ‘designated commercial private cou-  
23 rier service’ means a firm designated as such by the Sec-  
24 retary or any sales tax administering authority. The Sec-  
25 retary or any sales tax administering authority shall des-  
26 ignate a firm as a designated commercial private courier

1 service upon application of the firm provided that the  
2 firm—

3 “(1) provides its services to the general public,

4 “(2) records electronically to its data base kept  
5 in the regular course of its business the date on  
6 which an item was given to such firm for delivery,  
7 and

8 “(3) has been operating for at least 1 year.

9 “(e) EDUCATIONAL EXPENSES.—

10 “(1) IN GENERAL.—The term ‘educational ex-  
11 penses’ means expenses directly related to—

12 “(A) primary, secondary, college or univer-  
13 sity level instruction or course work, or

14 “(B) employment or career related training  
15 or instruction by or under qualified instructors  
16 in a structured program.

17 “(2) EXCLUSION.—Such term does not include  
18 room, board, sports activities, recreational activities,  
19 hobbies, games, arts or crafts or cultural activities.

20 “(f) FAMILY MEMBER.—The term ‘family member’  
21 has the meaning given such term by section 302(b).

22 “(g) FEDERAL SHORT TERM RATE.—The term ‘Fed-  
23 eral short term rate’ has the meaning given such term by  
24 section 2512(b).

1       “(h) GROSS PAYMENTS.—The term ‘gross payments’  
2 means payments for the taxable property or services (ex-  
3 cluding Federal taxes imposed by subtitle B).

4       “(i) IMPORT TAX.—The term ‘import tax’ means any  
5 tax imposed by chapter 10 of subtitle C.

6       “(j) INTANGIBLE PROPERTY.—

7           “(1) IN GENERAL.—The term ‘intangible prop-  
8 erty’ includes copyrights, trademarks, patents, good-  
9 will, financial instruments, securities, commercial  
10 paper, debts, notes and bonds and other property  
11 deemed intangible at common law. The Secretary  
12 shall promulgate regulations to resolve differences  
13 among the common law of the several States.

14           “(2) CERTAIN TYPES OF PROPERTY.—Such  
15 term does not include tangible personal property (or  
16 rents or leaseholds of any term thereon), real prop-  
17 erty (or rents or leaseholds of any term thereon) and  
18 computer software.

19           “(3) CROSS REFERENCE.—For anti avoidance  
20 rules relating to intangible property, see section  
21 2901(a).

22       “(k) INVESTMENT PURPOSES.—The term ‘invest-  
23 ment purposes’ means for purposes of appreciation or the  
24 production of income but not entailing more than minor  
25 personal efforts.

1       “(l) PERSON.—The term ‘person’ means any natural  
2 person, and unless the context clearly does not allow it,  
3 any corporation, partnership, limited liability company,  
4 trust, estate, government, agency, administration, organi-  
5 zation, association or other legal entity (foreign or domes-  
6 tic).

7       “(m) PRODUCE, PROVIDE, RENDER, OR SELL TAX-  
8 ABLE PROPERTY OR SERVICES.—

9           “(1) IN GENERAL.—Taxable property or serv-  
10 ices are used to produce, provide, render or sell a  
11 taxable property or service if such property or serv-  
12 ice is purchased by a person engaged in a trade or  
13 business for the purpose of employing or using such  
14 taxable property or service in the production, provi-  
15 sion, rendering or sale of other taxable property or  
16 services in the ordinary course of that trade or busi-  
17 ness.

18           “(2) RESEARCH, EXPERIMENTATION, TESTING,  
19 AND DEVELOPMENT.—Taxable property or services  
20 used in a trade or business for the purpose of re-  
21 search, experimentation, testing and development  
22 shall be treated as used to produce, provide, render  
23 or sell taxable property or services.

24           “(3) INSURANCE PAYMENTS.—Taxable property  
25 or services purchased by an insurer on behalf of an

1 insured shall be treated as used to produce, provide,  
2 render or sell taxable property or services if the pre-  
3 mium for the insurance contract giving rise to the  
4 insurer's obligation was subject to tax pursuant to  
5 section 601 (relating to financial intermediation  
6 services).

7 “(4) EDUCATION AND TRAINING.—Educational  
8 expenses shall be treated as services used to  
9 produce, provide, render or sell taxable property or  
10 services.

11 “(n) PURCHASER'S RECEIPT.—The term ‘pur-  
12 chaser's receipt’ means the receipt required by section  
13 2510.

14 “(o) REGISTERED SELLER.—The term ‘registered  
15 seller’ means a person registered pursuant to section  
16 2502.

17 “(p) SAVINGS ASSETS.—The term ‘savings assets’  
18 means financial assets held for an investment purpose.

19 “(q) SALES TAX ADMINISTERING AUTHORITY.—The  
20 term ‘sales tax administering authority’ means—

21 “(1) in an administering State, the State agen-  
22 cy designated to collect and administer the sales tax  
23 imposed by subtitle B, or

24 “(2) the Secretary, in a State that neither—

25 “(A) is an administering States, nor

1           “(B) has elected to have its sales tax ad-  
2           ministered by an administering State, or

3           “(3) in a State that has elected pursuant to  
4           section 401(g) to have another State administer the  
5           sales tax, the State agency designated to collect and  
6           administer the sales tax imposed by this subtitle.

7           “(r) SECRETARY.—The term ‘Secretary’ means the  
8           Secretary of the Treasury.

9           “(s) TAXABLE EMPLOYERS.—

10           “(1) IN GENERAL.—The term ‘taxable employ-  
11           ers’ means employers that are not—

12                   “(A) engaged in a trade or business,

13                   “(B) a not-for-profit organization (as de-  
14                   fined in section 506), or

15                   “(C) a Government enterprise (as defined  
16                   in section 504).

17           “(2) EXAMPLES.—Such term includes—

18                   “(A) households employing domestic serv-  
19                   ants (including cooks, gardeners, maids, labor-  
20                   ers, child care providers, and nurses), and

21                   “(B) government except for Government  
22                   enterprises as defined in section 504.

23           “(3) CROSS REFERENCE.—For rules relating to  
24           collection and remittance of tax on wages by taxable  
25           employers, see section 103.

1 “(t) TAXABLE PROPERTY OR SERVICES.—

2 “(1) GENERAL RULE.—For purposes of subtitle  
3 B, the term ‘taxable property or service’ means—

4 “(A) any property (including leaseholds of  
5 any term or rents with respect to such prop-  
6 erty) other than intangible property (as defined  
7 in subsection (j)), and

8 “(B) any service (including any financial  
9 intermediation services as determined by section  
10 601).

11 “(2) SERVICES.—For purposes of subparagraph  
12 (1), the term ‘services’ does not include services per-  
13 formed by an employee for which the employee is  
14 paid wages or a salary (as defined in subsection  
15 (w))—

16 “(A) for an employer in the regular course  
17 of the employer’s trade or business,

18 “(B) for an employer that is a not-for-  
19 profit organization (as defined in section 506),  
20 and

21 “(C) for an employer that is a Government  
22 enterprise (as defined in section 504).

23 “(3) WAGES AND SALARY PAID BY TAXABLE  
24 EMPLOYERS.—

1           “(A) GENERAL RULE.—The term ‘services’  
2 includes wages and salary paid by taxable em-  
3 ployers (as defined in subsection (l)).

4           “(B) EDUCATIONAL SERVICES.—The term  
5 ‘services’ does not include wages or salary paid  
6 by taxable employers to employees whose work  
7 is directly related to—

8                   “(i) providing primary, secondary, col-  
9 lege or university level instruction or  
10 course work, or

11                   “(ii) employment or career related  
12 training or instruction by or under quali-  
13 fied instructors in a structured program.

14           The term ‘services’ includes wages or salary  
15 paid by taxable employers to employees whose  
16 work is related to providing room, board, sports  
17 activities, recreational activities, hobbies,  
18 games, arts or crafts or cultural activities.

19           “(u) UNITED STATES.—The term ‘United States’,  
20 when used in the geographical sense, means the 50 States,  
21 the District of Columbia, and any commonwealth, terri-  
22 tory or possession of the United States.

23           “(v) USED PROPERTY.—The term ‘used property’  
24 means—

1           “(1) property on which the tax imposed by sec-  
2           tion 101 has been collected and for which no credit  
3           has been allowed under section 203, and

4           “(2) property that was held other than for a  
5           business purpose (as defined in section 2) on De-  
6           cember 31, 2006.

7           “(w) WAGES, SALARY, OR COMPENSATION.—The  
8           term ‘wages and salary’ means all compensation paid for  
9           employment service including cash compensation, em-  
10          ployee benefits, disability insurance or wage replacement  
11          insurance payments, unemployment compensation insur-  
12          ance, workers compensation insurance and the fair market  
13          value of any other consideration paid by an employer to  
14          an employee in consideration for employment services ren-  
15          dered.

16          “(x) WHOLESALER SELLER.—

17                 “(1) IN GENERAL.—The term ‘wholesaler seller’  
18                 means a registered seller for whom, in the previous  
19                 calendar year, more than 80 percent of gross pay-  
20                 ments received were from sales to registered sellers.

21                 “(2) FIRST YEAR.—Firms may petition the  
22                 sales tax administering authority to be deemed  
23                 wholesaler sellers for calendar year 2007. The sales  
24                 tax administering authority may require reasonable  
25                 documentation relating to whether more than 80

1 percent of the gross payments received by the firm  
 2 were from sales to persons that would have been  
 3 registered sellers in the year 2006 had the sales tax  
 4 been in effect.”.

## 5 **TITLE III—SALES TAX ENACTED**

### 6 **SEC. 301. SALES TAX.**

7 (a) IN GENERAL.—The Internal Revenue Code of  
 8 1986 is amended by inserting after subtitle A the following  
 9 new subtitle:

### 10 **“Subtitle B—Sales Tax**

“Chapter 1. Imposition of tax; general rules, etc.

“Chapter 2. Credits; refunds.

“Chapter 3. Family consumption allowance.

“Chapter 4. State and Federal cooperative tax administration.

“Chapter 5. Special rules.

“Chapter 6. Financial intermediation services.

### 11 **“CHAPTER 1—IMPOSITION OF TAX;**

### 12 **GENERAL RULES, ETC.**

“Sec. 101. Imposition of sales tax.

“Sec. 102. Intermediate and export sales.

“Sec. 103. Rules relating to collection and remittance of tax.

### 13 **“SEC. 101. IMPOSITION OF SALES TAX.**

14 “(a) IN GENERAL.—There is hereby imposed a tax  
 15 at the rate of 8.4 percent on the use or consumption in  
 16 the United States of taxable property or services (as de-  
 17 fined in section 2).

18 “(b) COORDINATION WITH IMPORT DUTIES AND  
 19 BUSINESS TAX.—The tax imposed by this section is in  
 20 addition to any import duties imposed by chapter 4 of title

1 19 and the tax imposed by subtitle C. The Secretary shall  
2 provide by regulation that, to the maximum extent prac-  
3 ticable, the tax imposed by this section on certain im-  
4 ported taxable property and services is collected and ad-  
5 ministered in conjunction with any applicable import du-  
6 ties imposed by the United States and with any applicable  
7 business tax imposed by subtitle C.

8 “(c) LIABILITY FOR TAX.—The person using or con-  
9 suming taxable property or services in the United States  
10 is liable for the tax imposed by this section, except as pro-  
11 vided by subsection (d) of this section.

12 “(d) EXCEPTION FROM LIABILITY FOR TAX.—A per-  
13 son using or consuming a taxable property or service in  
14 the United States is not liable for the tax imposed by this  
15 section if the person pays the tax to a person selling the  
16 taxable property or service and receives from such person  
17 a purchaser’s receipt (as defined in section 2).

18 **“SEC. 102. INTERMEDIATE AND EXPORT SALES.**

19 “(a) BUSINESS PURPOSE.—No tax shall be imposed  
20 under section 101 on any taxable property or service pur-  
21 chased for a business purpose in a trade or business, pro-  
22 vided that the purchaser provided the seller with a reg-  
23 istration certificate.

24 “(b) EXPORTS.—No tax shall be imposed under sec-  
25 tion 101 on any taxable property or service purchased for

1 export from the United States for use or consumption out-  
2 side the United States, provided that the purchaser pro-  
3 vided the seller with a registration certificate.

4 “(c) PURCHASES FOR INVESTMENT EXEMPT FROM  
5 TAX.—No tax shall be imposed under section 101 on any  
6 taxable property or service purchased for an investment  
7 purpose (as defined in section 2) and held exclusively for  
8 an investment purpose.

9 **“SEC. 103. RULES RELATING TO COLLECTION AND REMIT-**  
10 **TANCE OF TAX.**

11 “(a) LIABILITY FOR COLLECTION AND REMITTANCE  
12 OF THE TAX.—Any tax imposed by this subtitle shall be  
13 collected and remitted by the seller of taxable property or  
14 services (including financial intermediation services), ex-  
15 cept as provided otherwise by this section.

16 “(b) TAX TO BE REMITTED BY PURCHASER IN CER-  
17 TAIN CIRCUMSTANCES.—

18 “(1) IN GENERAL.—In the case of taxable prop-  
19 erty or services purchased outside of the United  
20 States and imported into the United States for use  
21 or consumption in the United States, the purchaser  
22 shall remit the tax imposed by section 101.

23 “(2) CERTAIN WAGES OR SALARY.—In the case  
24 of wages or salary (as defined in section 2) paid by  
25 a taxable employer (as defined in section 2) for tax-

1       able services (within the meaning of section 2), the  
2       employer shall remit the tax imposed by section 101.

3       “(c) CONVERSION OF BUSINESS OR EXPORT PROP-  
4       ERTY OR SERVICES.—Property or services purchased for  
5       a business purpose, for export or an investment purpose  
6       (sold untaxed pursuant to section 102) that is subse-  
7       quently converted to personal use shall be deemed pur-  
8       chased at the time of conversion and shall be subject to  
9       the tax imposed by section 101 at the fair market value  
10      of the converted property as of the date of conversion. The  
11      tax shall be due as if the property had been sold at the  
12      fair market value during the month of conversion. The  
13      person using or consuming the converted property is liable  
14      for and shall remit the tax.

15      “(d) SELLER RELIEVED OF LIABILITY IN CERTAIN  
16      CASES.—In the case of any taxable property or service  
17      which is sold untaxed pursuant to section 102, the seller  
18      shall be relieved of the duty to collect and remit the tax  
19      imposed under section 101 on such purchase if the sell-  
20      er—

21             “(1) received in good faith, and retains on file  
22             for the period set forth in section 2509, a copy of  
23             a registration certificate from the purchaser, and

1           “(2) did not, at the time of sale, have reason-  
2           able cause to believe that the buyer was not reg-  
3           istered pursuant to section 2502.

4           “(e) PURCHASER LIABLE TO COLLECT AND REMIT  
5           IN CERTAIN CASES.—In the case of any taxable property  
6           or service which is sold untaxed pursuant to section 102,  
7           if the seller is relieved by virtue of subsection (d) of the  
8           duty to collect and remit the tax imposed by section 101,  
9           then the duty to pay any tax due shall rest with the pur-  
10          chaser.

11          “(f) BARTER TRANSACTIONS.—If gross payment for  
12          taxable property or services is made by a means other than  
13          money, then the person responsible for collecting and re-  
14          mitting the tax shall remit the tax to the sales tax admin-  
15          istering authority in money as if the gross payment had  
16          been made in money at the fair market value of the tax-  
17          able property or services purchased.

18          “(g) INTERCOMPANY SALES.—Firms that make pur-  
19          chases from or sales to affiliated firms (as defined in sec-  
20          tion 2) that are untaxed pursuant to section 102 shall not  
21          need to comply with the requirements of subsection (d)  
22          (relating to certificates) for such purchases or sales to re-  
23          main untaxed.

24          “(h) ELECTION WITH RESPECT TO PRIMARY RESI-  
25          DENCE.—

1           “(1) IN GENERAL.—A purchaser may elect, in  
 2           a form prescribed by the Secretary, to pay the tax  
 3           imposed by section 101 ratably over 30 years (to-  
 4           gether with interest at the applicable interest rate  
 5           (as defined in section 2512)) if the taxable property  
 6           is the primary residence of the purchaser.

7           “(2) SPECIAL RULES.—If property with respect  
 8           to which an election has been made under paragraph  
 9           (1) ceases to be the primary residence of the pur-  
 10          chaser or is sold, then the remaining tax (and any  
 11          accrued interest) shall be paid within 5 days of such  
 12          sale or such residence ceasing to be the purchaser’s  
 13          primary residence.

## 14           **“CHAPTER 2—CREDITS; REFUNDS**

- “Sec. 201. Credits and refunds.
- “Sec. 202. Business use conversion credit.
- “Sec. 203. Intermediate and export sales credit.
- “Sec. 204. Administration credit.
- “Sec. 205. Bad debt credit.
- “Sec. 206. Insurance proceeds credit.
- “Sec. 207. Refunds.
- “Sec. 208. Previously taxed property credit.

### 15           **“SEC. 201. CREDITS AND REFUNDS.**

16           “(a) IN GENERAL.—Each person shall be allowed a  
 17           credit with respect to the taxes imposed by section 101  
 18           for each month in an amount equal to the sum of—

19           “(1) such person’s business use conversion  
 20           credit pursuant to section 202 for such month,

1           “(2) such person’s intermediate and export  
2 sales credit pursuant to section 203 for such month,

3           “(3) the administration credit pursuant to sec-  
4 tion 204 for such month,

5           “(4) the bad debt credit pursuant to section  
6 205 for such month,

7           “(5) the insurance proceeds credit pursuant to  
8 section 206 for such month,

9           “(6) the transitional inventory credit pursuant  
10 to section 2804,

11           “(7) the previously taxed property credit pursu-  
12 ant to section 208, and

13           “(8) any amount paid in excess of the amount  
14 due.

15           “(b) CREDITS NOT ADDITIVE.—Except for the ad-  
16 ministration credit allowed by section 204, only 1 credit  
17 allowed by chapter 2 may be taken with respect to any  
18 particular gross payment.

19 **“SEC. 202. BUSINESS USE CONVERSION CREDIT.**

20           “(a) In GENERAL.—For purposes of section 201, a  
21 person’s business use conversion credit for any month is  
22 the aggregate of the amounts determined under subsection  
23 (b) with respect to taxable property and services—

24           “(1) on which tax was imposed by section 101  
25 (and actually paid), and

1           “(2) which commenced to be 95 percent or  
2           more used during such month for business purposes  
3           (within the meaning of section 2).

4           “(b) AMOUNT OF CREDIT.—The amount determined  
5           under this paragraph with respect to any taxable property  
6           or service is the lesser of—

7           “(1) the product of—

8                   “(A) the rate imposed by section 101, and

9                   “(B) the fair market value of the property  
10           or service when its use is converted, or

11           “(2) the amount of tax paid with respect to  
12           such taxable property or service, including the  
13           amount, if any, determined in accordance with sec-  
14           tion 505 (relating to mixed use property).

15           “(c) CREDIT PROVIDED TO PERSON CONVERTING  
16           PROPERTY.—The credit provided by subsection (a) shall  
17           be provided to the person converting the property to busi-  
18           ness use. The credit shall only be available to registered  
19           persons.

20           “(d) CERTIFICATION.—The Secretary shall provide a  
21           form whereby a consumer may certify under penalty of  
22           perjury that a consumer good had been subject to the tax  
23           imposed by section 101. Such certification shall be suffi-  
24           cient to meet the requirements of subsection (a)(1).

1       “(e) PURCHASES FROM NON-REGISTERED PER-  
2 SON.—In the case of property purchased by a registered  
3 person from a non-registered person, the purchase price  
4 of the property shall be the fair market value for purposes  
5 of subsection (b).

6 **“SEC. 203. INTERMEDIATE AND EXPORT SALES CREDIT.**

7       “For purposes of section 201, a person’s intermediate  
8 and export sales credit is the amount of sales tax paid  
9 on the purchase of any taxable property or service pur-  
10 chased for—

11               “(1) a business purpose in a trade or business  
12               (as defined in section 2), or

13               “(2) export from the United States for use or  
14               consumption outside the United States.

15 **“SEC. 204. ADMINISTRATION CREDIT.**

16       “(a) Every person filing a timely monthly report  
17 (with regard to extensions) in compliance with section  
18 2501 shall be entitled to a taxpayer administrative credit  
19 equal to the greater of—

20               “(1) \$200, or

21               “(2) one-quarter of 1 percent of the tax remit-  
22               ted.

23       “(b) The credit afforded by this section shall not ex-  
24 ceed 20 percent of the tax due to be remitted prior to

1 the application of any credit or credits permitted by sec-  
2 tion 201.

3 **“SEC. 205. BAD DEBT CREDIT.**

4 “(a) FINANCIAL INTERMEDIATION SERVICES.—Any  
5 person who has experienced a bad debt (other than unpaid  
6 invoices within the meaning of subsection (b)) shall be en-  
7 titled to a credit equal to the product of—

8 “(1) the rate imposed by section 101, and

9 “(2) the amount of the bad debt (as defined in  
10 section 2).

11 “(b) UNPAID INVOICES.—Any person electing the ac-  
12 crual method of accounting that has with respect to a  
13 transaction—

14 “(1) invoiced the tax imposed by section 101,

15 “(2) remitted the invoiced tax,

16 “(3) actually delivered the taxable property or  
17 performed the taxable services invoiced, and

18 “(4) not been paid 180 days after the date the  
19 invoice was due to be paid shall be entitled to a  
20 credit equal to the amount of tax remitted and un-  
21 paid by the purchaser.

22 “(c) SUBSEQUENT PAYMENT.—Any payment made  
23 with respect to a transaction subsequent to a section 205  
24 credit being taken with respect to that transaction shall  
25 be subject to tax in the month the payment was received

1 as if a sale of taxable property and services in the amount  
2 of the payment had been made.

3 “(d) PARTIAL PAYMENTS.—Partial payments shall  
4 be treated as pro rata payments of the underlying obliga-  
5 tion and shall be allocated proportionately—

6 “(1) for fully taxable payments, between pay-  
7 ment for the taxable property and service and tax,  
8 or

9 “(2) for partially taxable payments, among pay-  
10 ment for the taxable property and service, tax and  
11 other payment.

12 “(e) RELATED PARTIES.—The credit provided by this  
13 section shall not be available with respect to sales made  
14 to related parties. For purposes of this section, the term  
15 ‘related party’ means affiliated firms (as defined in section  
16 2) and family members (as defined in section 2).

17 **“SEC. 206. INSURANCE PROCEEDS CREDIT.**

18 “(a) IN GENERAL.—A person receiving a payment  
19 from an insurer by virtue of an insurance contract shall  
20 be entitled to a credit in an amount determined by sub-  
21 section (b), less any amount paid to the insured by the  
22 insurer pursuant to subsection (c), provided that the en-  
23 tire premium (except that portion allocable to the invest-  
24 ment account of the underlying policy) for the insurance  
25 contract giving rise to the insurer’s obligation to make a

1 payment to the insured was subject to the tax imposed  
2 by section 101 and such tax was paid.

3 “(b) CREDIT AMOUNT.—The amount of the credit  
4 shall be the product of—

5 “(1) the rate imposed by section 101, and

6 “(2) the amount of the payment made by the  
7 insurer to the insured.

8 “(c) ADMINISTRATIVE OPTION.—The credit deter-  
9 mined in accordance with subsection (b) shall be paid by  
10 the insurer to the insured and the insurer shall be entitled  
11 to the credit in lieu of the insured provided, however, that  
12 the insurer may elect, in a form prescribed by the Sec-  
13 retary, to not pay the credit and require the insured to  
14 make application for the credit. In the event of such elec-  
15 tion, the insurer shall provide to the Secretary and the  
16 insured the name and tax identification number of the in-  
17 surer and of the insured and indicate the proper amount  
18 of the credit.

19 “(d) COORDINATION WITH RESPECT TO EXEMP-  
20 TION.—If taxable property or services purchased by an in-  
21 surer on behalf of an insured are purchased free of tax,  
22 then the credit provided by this section shall not be avail-  
23 able with respect to that purchase.

24 “(e) INSURANCE CONTRACT.—For purposes of sub-  
25 section (a), the term ‘insurance contract’ includes a life

1 insurance contract, a health insurance contract, a property  
2 and casualty loss insurance contract, a general liability in-  
3 surance contract, a marine insurance contract, a fire in-  
4 surance contract, an accident insurance contract, a dis-  
5 ability insurance contract, a long-term care insurance con-  
6 tract and an insurance contract that provides a combina-  
7 tion of these types of insurance.

8 **“SEC. 207. REFUNDS.**

9       “(a) REGISTERED SELLERS.—If a registered seller  
10 files a monthly tax report with an overpayment, then,  
11 upon application by the registered seller in a form pre-  
12 scribed by the sales tax administering authority, the over-  
13 payment shown on the report shall be refunded to the reg-  
14 istered seller within 60 days of receipt of such application.  
15 In the absence of such application, the overpayment may  
16 be carried forward, without interest, by the person entitled  
17 to the credit.

18       “(b) OTHER PERSONS.—If a person other than a reg-  
19 istered seller has an overpayment for any month, then,  
20 upon application by the person in a form prescribed by  
21 the sales tax administering authority, the credit balance  
22 due shall be refunded to the person within 60 days of re-  
23 ceipt of such application.

24       “(c) INTEREST.—No interest shall be paid on any  
25 balance due from the sales tax administering authority

1 under this subsection for any month if such balance due  
2 is paid within 60 days after the application for refund is  
3 received. Balances due not paid within 60 days after the  
4 application for refund is received shall bear interest from  
5 the date of application. Interest shall be paid at the Fed-  
6 eral short term rate (as defined in section 2512).

7 **“SEC. 208. PREVIOUSLY TAXED PROPERTY CREDIT.**

8 “(a) GENERAL RULE.—A seller of used property  
9 (within the meaning of section 2(v)) shall be entitled to  
10 a previously taxed property credit. The previously taxed  
11 property credit amount shall be the lesser of—

12 “(1) the amount of tax due and paid by virtue  
13 of the present sales transactions (without regard to  
14 any credits), or

15 “(2) the most recent prior tax imposed by sec-  
16 tion 101 with respect to such property (without re-  
17 gard to any credits).

18 “(b) TRANSITIONAL DEEMED PAID RULE FOR PROP-  
19 erty OWNED ON EFFECTIVE DATE OF ACT.—In the case  
20 of property which was acquired by the seller before De-  
21 cember 31, 2006, the amount of the previously taxed prop-  
22 erty credit allowable pursuant to section (a)(2) shall be  
23 8.4 percent of the fair market value of the property as  
24 of December 31, 2006. The seller shall be entitled to rely  
25 on the local government real property tax assessment of

1 the property, or such other means as may be permitted  
 2 by the Secretary, to establish fair market value.

3 **“CHAPTER 3—FAMILY CONSUMPTION**  
 4 **ALLOWANCE**

“Sec. 301. Family consumption allowance.

“Sec. 302. Qualified family.

“Sec. 303. Monthly poverty level.

“Sec. 304. Rebate mechanism.

“Sec. 305. Change in family circumstances.

5 **“SEC. 301. FAMILY CONSUMPTION ALLOWANCE.**

6 “Each qualified family (as defined in section 302)  
 7 shall be eligible to receive a sales tax rebate each month.  
 8 The sales tax rebate shall be in an amount equal to the  
 9 product of—

10 “(1) the rate of tax imposed by section 101,  
 11 and

12 “(2) the monthly poverty level (as defined in  
 13 section 303).

14 **“SEC. 302. QUALIFIED FAMILY.**

15 “(a) GENERAL RULE.—For purposes of this section,  
 16 the term ‘qualified family’ means 1 or more family mem-  
 17 bers sharing a common residence. All family members  
 18 sharing a common residence shall be considered as part  
 19 of 1 qualified family.

20 “(b) FAMILY SIZE DETERMINATION.—

21 “(1) IN GENERAL.—To determine the size of a  
 22 qualified family for purposes of this chapter, the  
 23 term ‘family member’ means—

1           “(A) an individual,

2           “(B) the individual’s spouse,

3           “(C) all lineal ancestors and descendants  
4 of such individual (and such individual’s  
5 spouse),

6           “(D) all legally adopted children of such  
7 individual (and such individual’s spouse), and

8           “(E) all children under legal guardianship  
9 of such individual (or such individual’s spouse).

10          “(2) In order for a person to be counted as a  
11 member of the family for purposes of determining  
12 the size of the qualified family, such person must—

13           “(A) have a bona fide social security num-  
14 ber, and

15           “(B) be a lawful resident of the United  
16 States.

17          “(c) CHILDREN LIVING AWAY FROM HOME.—

18           “(1) MEMBERS LIVING AWAY FROM HOME.—

19 Any person who is a registered student during no  
20 fewer than 5 months in a calendar year while living  
21 away from the common residence of a qualified fam-  
22 ily but who receives over 50 percent of his or her  
23 support during the calendar year from members of  
24 the qualified family shall be included as a member

1 of the family unit whose members provided such  
2 support for purposes of this section.

3 “(2) CHILDREN OF DIVORCED OR SEPARATED  
4 PARENTS.—If a child’s parents are divorced or le-  
5 gally separated, a child for purposes of this section  
6 shall be treated as a member of the qualified family  
7 of the custodial parent. In cases of joint custody, the  
8 custodial parent for purposes of this section shall be  
9 the parent that has custody of the child for more  
10 than one half of the time during a given calendar  
11 year. In the event that both parents have custody of  
12 the child for equal time during a given calendar  
13 year, then they may by agreement in a form pre-  
14 scribed by the Secretary determine which parent is  
15 the custodial parent for purposes of this section. In  
16 the event that both parents have custody of the child  
17 for equal time during a given calendar year and they  
18 have not agreed pursuant to the previous sentence,  
19 then the mother shall be treated as the custodial  
20 parent in even years and the father as the custodial  
21 parent in odd years for purposes of this section. A  
22 parent entitled to treat a child as a member of the  
23 parent’s qualified family pursuant to this subpara-  
24 graph may release this claim to the other parent  
25 provided that such release is in writing.

1       “(d) ANNUAL REGISTRATION.—In order to receive  
2 the family consumption allowance provided by section 301,  
3 a qualified family must register with the sales tax admin-  
4 istering authority (as defined in section 2) in a form pre-  
5 scribed by the Secretary. The annual registration form  
6 shall provide—

7           “(1) the name of each family member who  
8 shared the qualified family’s residence on the family  
9 determination date (as defined in subsection (m)),

10          “(2) the social security number of each family  
11 member who shared the qualified family’s residence  
12 on the family determination date,

13          “(3) the family member or family members to  
14 whom the family consumption allowance should be  
15 paid,

16          “(4) a certification that all listed family mem-  
17 bers are lawful residents of the United States,

18          “(5) a certification that all family members  
19 sharing the common residence are listed,

20          “(6) a certification that no family members  
21 were incarcerated on the family determination date  
22 (within the meaning of subsection (l)), and

23          “(7) the address of the qualified family.

1 Such registration shall be signed by all members of the  
2 qualified family that have attained the age of 21 years  
3 as the date of filing.

4 “(e) REGISTRATION NOT MANDATORY.—Registra-  
5 tion is not mandatory for any qualified family.

6 “(f) EFFECT OF FAILURE TO PROVIDE ANNUAL  
7 REGISTRATION.—Any qualified family that fails to reg-  
8 ister in accordance with this section within 30 days of the  
9 family determination date shall cease receiving the month-  
10 ly family consumption allowance in the month beginning  
11 90 days after the family determination date.

12 “(g) EFFECT OF CURING FAILURE TO PROVIDE AN-  
13 NUAL REGISTRATION.—Any qualified family that failed to  
14 timely make its annual registration in accordance with this  
15 section but subsequently cures its failure to register, shall  
16 be entitled to up to 6 months of lapsed sales tax rebate  
17 payments. No interest on lapsed payment amounts shall  
18 be paid.

19 “(h) EFFECTIVE DATE OF ANNUAL REGISTRA-  
20 TIONS.—An annual registration shall take effect for the  
21 month beginning 90 days after the family registration  
22 date.

23 “(i) EFFECTIVE DATE OF REVISED REGISTRA-  
24 TIONS.—A revised registration made pursuant to section  
25 305 shall take effect for the first month beginning 60 days

1 after the revised registration was filed. The existing reg-  
2 istration shall remain in effect until the effective date of  
3 the revised registration.

4 “(j) DETERMINATION OF REGISTRATION FILING  
5 DATE.—An annual or revised registration shall be deemed  
6 filed when—

7 “(1) deposited in the United States mail, post-  
8 age prepaid, to the address of the sales tax admin-  
9 istering authority,

10 “(2) delivered and accepted at the offices of the  
11 sales tax administering authority, or

12 “(3) provided to a designated commercial pri-  
13 vate courier service (as defined in section 2) for de-  
14 livery within 2 days to the sales tax administering  
15 authority at the address of the sales tax admin-  
16 istering authority.

17 “(k) PROPOSED REGISTRATION TO BE PROVIDED.—  
18 30 or more days before the family determination date, the  
19 sales tax administering authority shall mail to the address  
20 shown on the most recent rebate registration or change  
21 of address notice filed pursuant to section 305(d) a pro-  
22 posed registration that may be simply signed by the appro-  
23 priate family members if family circumstances have not  
24 changed.

1       “(1) INCARCERATED INDIVIDUALS.—An individual  
2 shall not be eligible under this section to be included as  
3 a member of any qualified family if that individual—

4               “(1) is incarcerated in a local, State or Federal  
5 jail, prison, mental hospital or other institution on  
6 the family determination date, and

7               “(2) is scheduled to be incarcerated for 6  
8 months or more in the 12 month period following  
9 the effective date of the annual registration or the  
10 revised registration of such qualified family.

11       “(m) FAMILY DETERMINATION DATE.—The family  
12 determination date is a date assigned to each family by  
13 the Secretary for purposes of determining qualified family  
14 size and other information necessary for the administra-  
15 tion of this Chapter. The Secretary shall promulgate regu-  
16 lations regarding the issuance of family determination  
17 dates. In the absence of any regulations, the family deter-  
18 mination date for all families shall be October 1st. The  
19 Secretary may assign family determination dates for ad-  
20 ministrative convenience. Permissible means of assigning  
21 family determination dates include a method based on the  
22 birth dates of family members.

23       **“SEC. 303. MONTHLY POVERTY LEVEL.**

24       “The monthly poverty level for any particular month  
25 shall be the annual level determined by the Department

1 of Health and Human Services poverty guidelines required  
2 by sections 652 and 673(2) of the Omnibus Reconciliation  
3 Act of 1981 (All States and the District of Columbia) for  
4 families of a particular size divided by 12.

5 **“SEC. 304. REBATE MECHANISM.**

6       “(a) GENERAL RULE.—The Social Security Adminis-  
7 tration shall provide a monthly sales tax rebate to duly  
8 registered qualified families in an amount determined in  
9 accordance with section 301.

10       “(b) PERSONS RECEIVING REBATE.—The payments  
11 shall be made to an individual designated by the qualifying  
12 family in the annual or revised registration for each quali-  
13 fied family in effect with respect to the month for which  
14 payment is being made. Payments may only be made to  
15 persons 18 years or older.

16       “(c) HOW REBATE PROVIDED.—In the case of em-  
17 ployed persons, the rebate shall be provided (1) by reduc-  
18 ing the amount of Social Security and Medicare payroll  
19 taxes withheld from the individual’s compensation and (2)  
20 reducing the amount that the employer must remit. In the  
21 case of persons that are not employed, the rebate shall  
22 be in the form of a check mailed monthly or provided by  
23 smartcard or by direct electronic deposit (at the election  
24 of the rebate recipient).

1       “(d) WHEN REBATES MAILED.—Rebates shall be  
2 mailed on or before the first business day of the month  
3 for which the rebate is being provided.

4       “(e) SMARTCARDS AND DIRECT ELECTRONIC DE-  
5 POSIT PERMISSIBLE.—The Social Security Administration  
6 may provide rebates in the form of smartcards that carry  
7 cash balances in their memory for use in making pur-  
8 chases at retail establishments or by direct electronic de-  
9 posit. The Social Security Administration shall provide  
10 that, at the request of the designated individual, rebates  
11 will be transferred to the individual development account  
12 of such individual in an amount specified by such indi-  
13 vidual.

14 **“SEC. 305. CHANGE IN FAMILY CIRCUMSTANCES.**

15       “(a) GENERAL RULE.—In the absence of the filing  
16 of a revised registration in accordance with this section,  
17 the common residence of the qualified family, marital sta-  
18 tus and number of persons in a qualified family on the  
19 family determination date shall govern determinations re-  
20 quired to be made under this subchapter for purposes of  
21 the following year.

22       “(b) NO DOUBLE COUNTING.—In no event shall any  
23 person be considered part of more than 1 qualified family.

24       “(c) REVISED REGISTRATION PERMISSIBLE.—A  
25 qualified family may file a revised registration for pur-

1 poses of section 302(d) to reflect a change in family cir-  
2 cumstances. A revised registration form shall provide—

3 “(1) the name of each family member who  
4 shared the qualified family’s residence on the filing  
5 date of the revised registration,

6 “(2) the social security number of each family  
7 member who shared the qualified family’s residence  
8 on the filing date of the revised registration,

9 “(3) the family member or family members to  
10 whom the family consumption allowance should be  
11 paid,

12 “(4) a certification that all listed family mem-  
13 bers are lawful residents of the United States,

14 “(5) a certification that all family members  
15 sharing the common residence are listed,

16 “(6) a certification that no family members  
17 were incarcerated on the family determination date  
18 (within the meaning of section 302(1)), and

19 “(7) the address of the qualified family.

20 Such revised registration shall be signed by all members  
21 of the qualified family that have attained the age of 21  
22 years as of the filing date of the revised registration.

23 “(d) CHANGE OF ADDRESS.—A change of address for  
24 a qualified family may be filed with the sales tax admin-

1 istering authority at any time and shall not constitute a  
2 revised registration.

3 “(e) REVISED REGISTRATION NOT MANDATORY.—  
4 Revised registrations reflecting changes in family status  
5 are not mandatory.

6 **“CHAPTER 4—STATE AND FEDERAL**  
7 **COOPERATIVE TAX ADMINISTRATION**

“Sec. 401. Authority for States to collect tax.

“Sec. 402. Federal administrative support for States.

“Sec. 403. Federal-State conferences.

“Sec. 404. Federal administration in certain States.

“Sec. 405. Interstate allocation and destination determination.

“Sec. 406. General administrative matters.

“Sec. 407. Jurisdiction.

8 **“SEC. 401. AUTHORITY FOR STATES TO COLLECT TAX.**

9 “(a) IN GENERAL.—The tax imposed by section 101  
10 on gross payments for the use or consumption of taxable  
11 property or services within a State shall be administered,  
12 collected, and remitted to the United States Treasury by  
13 such State if the State is an ‘administering State’ (as de-  
14 fined in subsection (b)).

15 “(b) ADMINISTERING STATE.—For purposes of this  
16 section, the term ‘administering State’ means any State—

17 “(1) which maintains a sales tax, and

18 “(2) which enters into a cooperative agreement  
19 with the Secretary governing the administration by  
20 such State of the taxes imposed by this chapter and  
21 the remittance to the United States in a timely man-  
22 ner of taxes collected under this chapter.

1       “(c) COOPERATIVE AGREEMENTS.—The agreement  
2 under subsection (b)(2) shall include provisions for the ex-  
3 peditious transfer of funds, contact officers, dispute reso-  
4 lution (including agreement to abide by the arbitration  
5 process for resolving disputes among States provided in  
6 section 405(i)), information exchange, confidentiality, tax-  
7 payer rights and other matters of importance. The agree-  
8 ment shall not contain extraneous matters.

9       “(d) TIMELY REMITTANCE OF TAX.—

10           “(1) IN GENERAL.—Administering States shall  
11 remit and pay over taxes collected under this subtitle  
12 on behalf of the United States (less the administra-  
13 tion fee allowable under paragraph (2)) no later  
14 than 5 days after receipt. Interest at 150 percent of  
15 the Federal short-term rate shall be paid with re-  
16 spect to amounts remitted after the due date.

17           “(2) ADMINISTRATION FEE.—An administering  
18 State may retain an administration fee equal to one-  
19 quarter of 1 percent of the amounts otherwise re-  
20 quired to be remitted to the United States under  
21 this chapter by the administering State.

22       “(e) LIMITATION ON ADMINISTRATION OF TAX BY  
23 UNITED STATES.—The Secretary may administer the tax  
24 imposed by this subtitle in an administering State only  
25 if—

1           “(1)(A) such State has failed on a regular basis  
2 to timely remit to the United States taxes collected  
3 under this chapter on behalf of the United States,  
4 or

5           “(B) such State has on a regular basis other-  
6 wise materially breached the agreement referred to  
7 in subsection (b)(2),

8           “(2) the State has failed to cure such alleged  
9 failures and breaches within a reasonable time,

10           “(3) the Secretary provides such State with  
11 written notice of such alleged failures and breaches,  
12 and

13           “(4) a District Court of the United States with-  
14 in such State, upon application of the Secretary, has  
15 rendered a decision—

16           “(A) making findings of fact that—

17           “(i) such State has failed on a regular  
18 basis to timely remit to the United States  
19 taxes collected under this chapter on behalf  
20 of the United States, or such State has on  
21 a regular basis otherwise materially  
22 breached the agreement referred to in sub-  
23 section (b)(2), and

1           “(ii) the Secretary has provided such  
2           State with written notice of such alleged  
3           failures and breaches, and

4           “(iii) the State has failed to cure such  
5           alleged failures and breaches within a rea-  
6           sonable time, and

7           “(B) making a determination that it is in  
8           the best interest of the citizens of the United  
9           States that the administering State’s authority  
10          to administer the tax imposed by this subtitle  
11          be revoked and such tax be administered di-  
12          rectly by the Secretary.

13          The order of the District Court revoking the author-  
14          ity of an administering State shall contain provisions  
15          governing the orderly transfer of authority to the  
16          Secretary.

17          “(f) REINSTITUTION.—A State that has had its au-  
18          thority revoked pursuant to subsection (e) shall not be an  
19          administering State for a period of not less than 5 years  
20          after the date of the order of revocation. For the first cal-  
21          endar year commencing 8 years after the date of the order  
22          of revocation, the State shall be regarded without preju-  
23          dice as eligible to become an administering State.

24          “(g) THIRD STATE ADMINISTRATION PERMISS-  
25          SIBLE.—It shall be permissible for a State to contract with

1 an administering State to administer the State’s sales tax  
2 for an agreed fee. In this case, the agreement con-  
3 templated by subsection (c) shall have both States and the  
4 Federal Government as parties.

5 “(h) INVESTIGATIONS AND AUDITS.—Administering  
6 States shall not conduct investigations or audits at facili-  
7 ties in other administering States in connection with the  
8 tax imposed by section 101 or conforming State sales tax  
9 but shall instead cooperate with other administering  
10 States using the mechanisms established by section 402  
11 of this chapter, by compact or by other agreement.

12 **“SEC. 402. FEDERAL ADMINISTRATIVE SUPPORT FOR**  
13 **STATES.**

14 “(a) The Secretary shall administer a program to fa-  
15 cilitate information sharing among administering States.

16 “(b) The Secretary shall facilitate, and may be a  
17 party to, a compact among the States for purposes of fa-  
18 cilitating the taxation of interstate sales and for other pur-  
19 poses that may facilitate implementation of this subtitle.

20 “(c) The Secretary shall enter into an agreement  
21 among conforming States enabling conforming States to  
22 collect conforming State sales tax on sales made by sellers  
23 without a particular conforming State to a destination  
24 within that particular conforming State.

1       “(d) The Secretary shall have the authority to pro-  
 2 mulgate regulations, to provide guidelines, to assist States  
 3 in administering the national sales tax, to provide for uni-  
 4 formity in the administration of the tax and to provide  
 5 guidance to the public.

6       **“SEC. 403. FEDERAL-STATE CONFERENCES.**

7       “No less than once annually, the Secretary shall host  
 8 a conference with the sales tax administrators from the  
 9 various administering States to evaluate the state of a na-  
 10 tional sales tax system, to address issues of mutual con-  
 11 cern and to develop and consider legislative, regulatory  
 12 and administrative proposals to improve the tax system.

13       **“SEC. 404. FEDERAL ADMINISTRATION IN CERTAIN STATES.**

14       “‘The Secretary shall directly administer the tax im-  
 15 posed by this subtitle in any State or other United States  
 16 jurisdiction that has not—

17               “(1) become an administering State, or

18               “(2) elected to have another State administer  
 19 its tax in accordance with section 401(g).

20       **“SEC. 405. INTERSTATE ALLOCATION AND DESTINATION**  
 21                               **DETERMINATION.**

22       “(a) DESTINATION GENERALLY.—The tax imposed  
 23 by this subtitle is a destination principle tax. This section  
 24 shall govern for purposes of determining—

1           “(1) whether the destination of taxable property  
2           and services is within or without the United States,  
3           and

4           “(2) which State or territory within the United  
5           States is the destination of taxable property and  
6           services.

7           “(b) TANGIBLE PERSONAL PROPERTY.—Except as  
8           provided in subsection (g) (relating to certain leases), the  
9           destination of tangible personal property shall be the State  
10          or territory in which the property was first delivered to  
11          the purchaser (including the purchaser’s agents and au-  
12          thorized representatives).

13          “(c) REAL PROPERTY.—The destination of real prop-  
14          erty, or rents or leaseholds on real property, shall be the  
15          State or territory in which the real property is located.

16          “(d) OTHER PROPERTY.—The destination of any  
17          other taxable property shall be the residence of the pur-  
18          chaser.

19          “(e) SERVICES.—

20                 “(1) GENERAL RULE.—The destination of serv-  
21                 ices shall be the State or territory in which the use  
22                 or consumption of the services occurred. Allocation  
23                 of services relating to more than 1 jurisdiction shall  
24                 be on the basis of time or another method deter-  
25                 mined by regulation.

1           “(2) TELECOMMUNICATIONS SERVICES.—The  
2 destination of telecommunications services shall be  
3 the residence of the purchaser. The term ‘tele-  
4 communications services’ includes telephone, tele-  
5 graph, beeper, radio, cable television, satellite and  
6 computer online or network services.

7           “(3) DOMESTIC TRANSPORTATION SERVICES.—  
8 For transportation services where all of the final  
9 destinations are within the United States, the des-  
10 tination of transportation services shall be the final  
11 destination of the trip (in the case of round or mul-  
12 tiple trip fares, the services amount shall be equally  
13 allocated among each final destination).

14           “(4) INTERNATIONAL TRANSPORTATION SERV-  
15 ICES.—For transportation services where the final  
16 destination or origin of the trip is without the  
17 United States, the service amount shall be deemed  
18 50 percent attributable to the United States destina-  
19 tion or origin.

20           “(5) ELECTRICAL SERVICE.—The destination of  
21 electrical services shall be the residence of the pur-  
22 chaser.

23           “(f) FINANCIAL INTERMEDIATION SERVICES.—The  
24 destination of financial intermediation services shall be the  
25 residence of the purchaser.

1       “(g) RENTS PAID FOR THE LEASE OF TANGIBLE  
2 PROPERTY.—

3           “(1) GENERAL RULE.—Except as provided in  
4 subparagraph (2), the destination of rents paid for  
5 the lease of tangible property and leaseholds on such  
6 property shall be where the property is located while  
7 in use.

8           “(2) LAND VEHICLES; AIRCRAFT; WATER  
9 CRAFT.—The destination of rental and lease pay-  
10 ments on land vehicles, aircraft and water craft shall  
11 be—

12           “(A) in the case of rentals and leases of a  
13 term 1 month or less, the location where the  
14 land vehicle, aircraft or water craft was origi-  
15 nally delivered to the renter or lessee, and

16           “(B) in the case of rentals and leases of a  
17 term greater than 1 month, the residence of the  
18 renter or lessee.

19       “(h) ALLOCATION RULES.—Tax revenue from taxes  
20 imposed by this subtitle or from conforming State sales  
21 taxes shall be allocated between or among States by ref-  
22 erence to which State or States are the destination of the  
23 taxable property or service.

24       “(i) FEDERAL OFFICE OF REVENUE ALLOCATION.—  
25 The Secretary shall establish an Office of Revenue Alloca-

1 tion to arbitrate any claims or disputes among admin-  
2 istering States as to the destination of taxable property  
3 and services for purposes of allocating revenue between or  
4 among the States from taxes imposed by this subtitle. The  
5 determination of the Administrator of the Office of Rev-  
6 enue Allocation shall be subject to judicial review in any  
7 Federal court with competent jurisdiction provided: The  
8 standard of such judicial review shall be abuse of discre-  
9 tion.

10 **“SEC. 406. GENERAL ADMINISTRATIVE MATTERS.**

11       “(a) IN GENERAL.—The Secretary and each sales tax  
12 administering authority may employ such persons as may  
13 be necessary for the administration of this title and may  
14 delegate to employees the authority to conduct interviews,  
15 hearings, prescribe rules, promulgate regulations and per-  
16 form such other duties as are required by this subtitle.

17       “(b) RESOLUTION OF ANY INCONSISTENT RULES  
18 AND REGULATIONS.—In the event that the Secretary and  
19 any sales tax administering authority have issued incon-  
20 sistent rules or regulations, any lawful rule or regulation  
21 issued by the Secretary shall govern.

22       “(c) ADEQUATE NOTICE TO BE PROVIDED.—Except  
23 in the case of an emergency declared by the Secretary (and  
24 not his designee), no rule or regulation issued by the Sec-  
25 retary with respect to any internal revenue law shall take

1 effect before 90 days have elapsed after its publication in  
2 the Federal Register. Upon issuance, the Secretary shall  
3 provide copies of all rules or regulations issued under this  
4 title to each sales tax administering authority.

5 “(d) NO RULES, RULINGS OR REGULATIONS WITH  
6 RETROACTIVE EFFECT.—No rule, ruling or regulation  
7 issued or promulgated by the Secretary relating to any in-  
8 ternal revenue law or by a sales tax administering author-  
9 ity shall apply to a period prior to its publication in the  
10 Federal Register (or State equivalent) except that a regu-  
11 lation may take retroactive effect to prevent abuse.

12 “(e) REVIEW OF IMPACT OF REGULATIONS, RULES  
13 AND RULINGS ON SMALL BUSINESS.—

14 “(1) SUBMISSION TO SMALL BUSINESS ADMIN-  
15 ISTRATION.—After publication of any proposed or  
16 temporary regulation by the Secretary relating to in-  
17 ternal revenue laws, the Secretary shall submit such  
18 regulation to the Chief Counsel for Advocacy of the  
19 Small Business Administration for comment on the  
20 impact of such regulation on small businesses. Not  
21 later than the date 30 days after the date of such  
22 submission, the Chief Counsel for Advocacy of the  
23 Small Business Administration shall submit com-  
24 ments on such regulation to the Secretary.

1           “(2) CONSIDERATION OF COMMENTS.—In pre-  
2           scribing any final regulation which supersedes a pro-  
3           posed or temporary regulation which had been sub-  
4           mitted under this subsection to the Chief Counsel  
5           for Advocacy of the Small Business Administration  
6           the Secretary shall—

7                   “(A) consider the comments of the Chief  
8           Counsel for Advocacy of the Small Business  
9           Administration on such proposed or temporary  
10          regulation, and

11                   “(B) in promulgating such final regulation,  
12          include a narrative that describes the response  
13          to such comments.

14           “(3) SUBMISSION OF CERTAIN FINAL REGULA-  
15          TION.—In the case of promulgation by the Secretary  
16          of any final regulations (other than a temporary reg-  
17          ulation) which do not supersede a proposed regula-  
18          tion, the requirements of paragraphs (1) and (2)  
19          shall apply, except that the submission under para-  
20          graph (1) shall be made at least 30 days before the  
21          date of such promulgation, and the consideration  
22          and discussion required under paragraph (2) shall  
23          be made in connection with the promulgation of such  
24          final regulation.

1       “(f) SMALL BUSINESS REGULATORY SAFEGUARDS.—  
 2 The Small Business Regulatory Enforcement Fairness  
 3 Act, Public Law No. 104–121, 110 Stat. 857 (‘SBREFA’)  
 4 and the Regulatory Flexibility Act, 5 U.S.C. 601–612  
 5 (‘RFA’) shall apply to regulations promulgated under this  
 6 subtitle.

7       **“SEC. 407. JURISDICTION.**

8       “(a) STATE JURISDICTION.—A sales tax admin-  
 9 istering authority shall have jurisdiction over any gross  
 10 payments made which have a destination (as determined  
 11 in accordance with section 405) within the State of such  
 12 sales tax administering authority. This grant of jurisdic-  
 13 tion is not exclusive of other jurisdiction that such sales  
 14 tax administering authority may have.

15       “(b) FEDERAL JURISDICTION.—The grant of juris-  
 16 diction in subsection (a) shall not be in derogation of Fed-  
 17 eral jurisdiction over the same matter. The Federal Gov-  
 18 ernment shall have the right to exercise pre-emptive juris-  
 19 diction over matters relating to the taxes imposed by this  
 20 subtitle.

21       **“CHAPTER 5—SPECIAL RULES**

“Sec. 501. Hobby activities.

“Sec. 502. Gaming activities.

“Sec. 503. Government purchases.

“Sec. 504. Government enterprises.

“Sec. 505. Mixed use property.

“Sec. 506. Not-for-profit organizations.

1 **“SEC. 501. HOBBY ACTIVITIES.**

2 “(a) IN GENERAL.—Neither the exemption afforded  
3 by section 102 for intermediate sales nor the credits avail-  
4 able pursuant to sections 202 or 203 shall be available  
5 for any taxable property or service purchased for use in  
6 an activity if that activity is not engaged in for profit.

7 “(b) TREATMENT OF CERTAIN BUSINESS ACTIV-  
8 ITY.—If the activity has received gross payments for the  
9 sale of taxable property or services that exceed the sum  
10 of—

11 “(1) taxable property and services purchased,

12 “(2) wages and salary paid, and

13 “(3) taxes (of any type) paid

14 in 2 or more of the most recent 3 calendar years during  
15 which it operated, then the business activity shall be con-  
16 clusively deemed to be engaged in for profit.

17 **“SEC. 502. GAMING ACTIVITIES.**

18 “(a) REGISTRATION.—Any person engaging in the  
19 trade or business of selling 1 or more chances (as defined  
20 in subsection (b)) is a gaming sponsor and shall register,  
21 in a form prescribed by the Secretary, with the sales tax  
22 administering authority as a gaming sponsor.

23 “(b) CHANCE DEFINED.—For purposes of this sec-  
24 tion, the term ‘chance’ means a lottery ticket, a raffle tick-  
25 et, chip, other token, a bet placed, a wager placed or any  
26 similar device where the purchase of the right gives rise

1 to an obligation by the gaming sponsor to pay upon the  
2 occurrence of—

3           “(1) a random or unpredictable event, or

4           “(2) an event over which neither the gaming  
5 sponsor nor the person purchasing the chance has  
6 any substantial degree of control over the outcome.

7           “(c) TAXABLE PROPERTY OR SERVICE.—A chance is  
8 taxable property or services for purposes of section 101.

9           “(d) IN GENERAL.—A person receiving a gaming  
10 payment from a gaming sponsor because of the purchase  
11 of a chance that was taxed pursuant to section 101 shall  
12 be entitled to a credit in an amount determined by sub-  
13 section (e). The gaming sponsor shall pay the credit to  
14 the person receiving such gaming payment. The gaming  
15 sponsor shall reduce the amount of sales tax remitted to  
16 the sales tax administering authority by the amount of any  
17 credits paid.

18           “(e) CREDIT AMOUNT.—The amount of the credit  
19 shall be the product of—

20           “(1) the rate imposed by section 101, and

21           “(2) the amount of the payment made by the  
22 gaming sponsor to the person.

23           “(f) ILLEGAL OPERATIONS.—The credit afforded by  
24 this section shall be available only if—

1           “(1) the sale or purchase of the chance giving  
2           rise to the payment was lawful under Federal and  
3           State law where and when sold and purchased, and

4           “(2) the payment by the gaming sponsor to the  
5           person seeking the credit was lawful under Federal  
6           and State law where and when paid.

7           “(g) FOREIGN GAMING PAYMENTS.—The credit af-  
8           forded by this section shall not be available unless—

9           “(1) the gaming payment is made in the United  
10          States, and

11          “(2) the gaming services were provided in the  
12          United States.

13          “(h) GAMING PAYMENTS OTHER THAN MONEY.—A  
14          person who receives a gaming payment other than money  
15          shall not be entitled to a credit under this section.

16          “(i) GAMING PAYMENTS IN CASES WHERE CONSID-  
17          ERATION NOT PROVIDED.—Gaming payments and prizes  
18          received by a person who did not provide consideration for  
19          the right to receive the gaming payment or prize shall be  
20          treated as a taxable proxy purchase or provision within  
21          the meaning of section 2901.

22          **“SEC. 503. GOVERNMENT PURCHASES.**

23          “(a) GOVERNMENT PURCHASES.—

24                  “(1) PURCHASES BY THE FEDERAL GOVERN-  
25          MENT.—Purchases by the Federal Government of

1 taxable property and services shall be subject to the  
2 tax imposed by section 101.

3 “(2) PURCHASES BY STATE GOVERNMENTS AND  
4 THEIR POLITICAL SUBDIVISIONS.—Purchases by  
5 State governments and their political subdivisions  
6 shall be subject to the tax imposed by section 101  
7 unless—

8 “(A) the purchase directly relates to an in-  
9 herently governmental activity within the mean-  
10 ing of section 1702, or

11 “(B) the purchase would have been exempt  
12 if made by a tax-exempt organization.

13 “(b) CROSS REFERENCES.—For purchases by Gov-  
14 ernment enterprises see section 504.

15 **“SEC. 504. GOVERNMENT ENTERPRISES.**

16 “(a) GOVERNMENT ENTERPRISES TO COLLECT AND  
17 REMIT TAXES ON SALES.—Nothing in this subtitle shall  
18 be construed to exempt any Federal, State, or local gov-  
19 ernmental entity (whether or not the State is an admin-  
20 istering State) engaged in any business activity from col-  
21 lecting and remitting tax imposed by this subtitle on any  
22 sale of taxable property or services. Government entities  
23 shall comply with all duties imposed by this subtitle and  
24 shall be liable for penalties and subject to enforcement ac-  
25 tion in the same manner as private persons.

1       “(b) GOVERNMENT ENTERPRISE.—Any entity owned  
2 or operated by a Federal, State, or local governmental unit  
3 or political subdivision that receives gross payments from  
4 non-governmental persons is a Government enterprise pro-  
5 vided, however, that a Government-owned entity shall not  
6 become a Government enterprise for purposes of this sec-  
7 tion unless in any quarter it has revenues from selling tax-  
8 able property or services that exceed \$2,500.

9       “(c) GOVERNMENT ENTERPRISES INTERMEDIATE  
10 SALES.—

11           “(1) Government enterprises shall not be sub-  
12 ject to tax on purchases that would not be subject  
13 to tax pursuant to section 102 if the Government  
14 enterprise were a private enterprise.

15           “(2) Government enterprises may not use the  
16 exemption afforded by section 102 to serve as a con-  
17 duit for tax free purchases by Government units that  
18 would otherwise be subject to taxation on purchases  
19 pursuant to section 503. If taxable property or serv-  
20 ices purchased exempt from tax by a Government  
21 enterprise are transferred by a Government enter-  
22 prise to such Government unit then the Government  
23 enterprise shall remit tax as if a taxable sale were  
24 made on the date of the transfer at the fair market  
25 value of the taxable property or service transferred.

1       “(d) SEPARATE BOOKS OF ACCOUNT.—Any Govern-  
 2 ment enterprise must maintain books of account, separate  
 3 from the non-enterprise Government accounts, maintained  
 4 in accordance with generally accepted accounting prin-  
 5 ciples.

6       “(e) TRADE OR BUSINESS.—A Government enter-  
 7 prise shall be treated as a trade or business for purposes  
 8 of this subtitle.

9       “(f) ENTERPRISE SUBSIDIES CONSTITUTE TAXABLE  
 10 PURCHASE.—A transfer of funds to a Government enter-  
 11 prise by a Government entity without full consideration  
 12 shall constitute a taxable Government purchase within the  
 13 meaning of section 503 (to the extent that the transfer  
 14 of funds exceeds the fair market value of the consider-  
 15 ation).

16 **“SEC. 505. MIXED USE PROPERTY.**

17       “(a) MIXED USE PROPERTY OR SERVICE.—

18               “(1) MIXED USE PROPERTY OR SERVICE.—  
 19 Mixed Use Property or Service is a taxable property  
 20 or taxable service used for both—

21                       “(A) taxable use or consumption, and

22                       “(B) for a purpose that would not be sub-  
 23 ject to tax pursuant to section 102.

24               “(2) TAXABLE THRESHOLD.—Mixed Use Prop-  
 25 erty or Service shall be subject to tax notwith-

1 standing section 102 unless such property or service  
2 is used more than 95 percent for purposes that  
3 would give rise to an exemption pursuant to section  
4 102 during each calendar year (or portions thereof)  
5 it is owned.

6 “(3) MIXED USE PROPERTY OR SERVICES  
7 CREDIT.—A person registered pursuant to section  
8 2502 is entitled to a business use conversion credit  
9 (pursuant to section 202) equal to the product of—

10 “(A) the mixed use property amount,

11 “(B) the business use ratio, and

12 “(C) the rate of tax imposed by section

13 101.

14 “(4) MIXED USE PROPERTY AMOUNT.—The  
15 mixed use property amount for each month (or frac-  
16 tion thereof) in which the property was owned shall  
17 be—

18 “(A) one-three-hundred-sixtieth of the  
19 gross payments for real property for 360  
20 months or until the property is sold,

21 “(B) one-eighty-fourth of the gross pay-  
22 ments for tangible personal property (other  
23 than vehicles) for 84 months or until the prop-  
24 erty is sold,

1           “(C) one-sixtieth of the gross payments for  
2           vehicles for 60 months or until the property is  
3           sold, or

4           “(D) for other types of taxable property or  
5           services, a reasonable amount or in accordance  
6           with regulations prescribed by the Secretary.

7           “(5) BUSINESS USE RATIO.—The business use  
8           ratio is the ratio of business use to total use for a  
9           particular calendar month (or portion thereof if the  
10          property was owned for only part of such calendar  
11          month). For vehicles, the business use ratio will be  
12          the ratio of business purpose miles to total miles in  
13          a particular calendar month. For real property, the  
14          business use ratio is the ratio of floor space used  
15          primarily for business purposes to total floor space  
16          in a particular calendar month. For tangible per-  
17          sonal property (except for vehicles), the business use  
18          ratio is the ratio of total time used for business pur-  
19          poses to total time used in a particular calendar  
20          year. For other property or services, the business  
21          ratio shall be calculated using a reasonable method.  
22          Reasonable records must be maintained to support a  
23          person’s business use of the mixed use property or  
24          service.

1       “(b) TIMING OF BUSINESS USE CONVERSION CRED-  
 2 IT ARISING OUT OF OWNERSHIP OF MIXED USE PROP-  
 3 ERTY.—A person entitled to a credit pursuant to sub-  
 4 section (a)(3) arising out of the ownership of mixed use  
 5 property must account for the mixed use on a calendar  
 6 year basis, and may file for the credit with respect to  
 7 mixed use property in any month following the calendar  
 8 year giving rise to the credit.

9       “(c) CROSS REFERENCES.—For business use conver-  
 10 sion credit, see section 202.

11 **“SEC. 506. NOT-FOR-PROFIT ORGANIZATIONS.**

12       “(a) NOT-FOR-PROFIT ORGANIZATIONS.—Dues, con-  
 13 tributions and similar payments to—

14               “(1) organizations described in section 1703, or

15               “(2) organizations that are—

16                       “(A) civic leagues,

17                       “(B) social welfare organizations, or

18                       “(C) fraternal beneficiary societies, orders

19                       or associations, no part of the net earnings of

20                       which inures to the benefit of any private share-

21                       holder or individual,

22 shall not be considered gross payments for taxable prop-  
 23 erty or services for purposes of this subtitle.

24       “(b) QUALIFICATION CERTIFICATES FOR QUALIFIED  
 25 NOT-FOR-PROFIT ORGANIZATIONS.—Upon application in

1 a form prescribed by the Secretary, the sales tax admin-  
2 istering authority shall provide qualification certificates to  
3 qualified not-for-profit organizations.

4 “(c) TREATMENT OF PROPERTY AND SERVICES PRO-  
5 VIDED IN CONNECTION WITH CONTRIBUTIONS.—If an or-  
6 ganization described in subsection (a) provides taxable  
7 property or services in connection with contributions, dues  
8 or similar payments to the organization, then it shall be  
9 required to treat the provision of such taxable property  
10 or services as a purchase taxable pursuant to this subtitle  
11 at the fair market value of such taxable property or serv-  
12 ices.

13 “(d) NOT-FOR-PROFIT ORGANIZATION ENTERPRISE  
14 INTERMEDIATE SALES.—

15 “(1) Not-for-profit organization enterprises  
16 shall not be subject to tax on purchases that would  
17 not be subject to tax pursuant to section 102 if the  
18 not-for-profit organization enterprise were a private  
19 enterprise.

20 “(2) Not-for-profit organization enterprises may  
21 not use the exemption afforded by section 102 to  
22 serve as a conduit for tax free purchases by the not-  
23 for-profit organization that would otherwise be sub-  
24 ject to taxation. If taxable property or services pur-  
25 chased exempt from tax by a not-for-profit organiza-



1           “(A) explicitly charged fees for financial  
2           intermediation services, and

3           “(B) implicitly charged fees for financial  
4           intermediation services.

5           “(2) EXPLICITLY CHARGED FEES FOR FINAN-  
6           CIAL INTERMEDIATION SERVICES.—The term ‘explic-  
7           itly charged fees’ has the meaning given such term  
8           by section 1502(c).

9           “(3) Implicitly charged fees for financial inter-  
10          mediation services.—

11           “(A) IN GENERAL.—The term ‘implicitly  
12          charged fees for financial intermediation serv-  
13          ices’ includes the gross imputed amount with  
14          respect to any underlying interest bearing in-  
15          vestment, account or debt.

16           “(B) GROSS IMPUTED AMOUNT.—For pur-  
17          poses of subparagraph (A), the term ‘gross im-  
18          puted amount’ means—

19                   “(i) with respect to any underlying in-  
20                   terest bearing investment or account, the  
21                   product of—

22                           “(I) the excess (if any) of the  
23                           basic interest rate (as defined in sec-  
24                           tion 605) over the rate paid on such  
25                           investment, and

1                   “(II) the amount of the invest-  
2                   ment or account, and

3                   “(ii) with respect to any underlying  
4                   interest bearing debt, the product of—

5                   “(I) the excess (if any) of the  
6                   rate paid on such debt over the basic  
7                   interest rate (as defined in section  
8                   605), and

9                   “(II) the amount of the debt.

10           “(b) PERSONS TREATED AS SELLERS.—For pur-  
11           poses of section 103(a), the seller of financial intermedi-  
12           ation services shall be—

13                   “(1) in the case of explicitly charged fees for fi-  
14                   nancial intermediation services (as defined in sub-  
15                   section (a)(2)), the seller shall be the person who re-  
16                   ceives the gross payments for the charged financial  
17                   intermediation services,

18                   “(2) in the case of implicitly charged fees for fi-  
19                   nancial intermediation services (as defined in sub-  
20                   section (a)(3)) with respect to any underlying inter-  
21                   est bearing investment or account, the person mak-  
22                   ing the interest payments on the interest bearing in-  
23                   vestment or account, and

24                   “(3) in the case of implicitly charged fees for fi-  
25                   nancial intermediation services (as defined in sub-

1 section (a)(3)) with respect to any interest bearing  
2 debt, the person receiving the interest payments on  
3 the interest bearing debt.

4 **“SEC. 602. BAD DEBTS.**

5 “(a) For purposes of section 205(a), a bad debt shall  
6 be a business loan or debt that becomes wholly or partially  
7 worthless to the payee.

8 “(b) For purposes of subsection (a), a business loan  
9 or debt is a bona fide loan or debt made for a business  
10 purpose that both parties intended to be repaid.

11 “(c) No loan or debt shall be considered wholly or  
12 partially worthless unless it has been in arrears for 180  
13 days or more, provided, however, that if a debt is dis-  
14 charged wholly or partially in bankruptcy before 180 days  
15 has elapsed, then it shall be deemed wholly or partially  
16 worthless on the date of discharge.

17 “(d) A loan or debt that has been in arrears for 180  
18 days or more may be deemed wholly or partially worthless  
19 by the holder unless a payment schedule has been entered  
20 into between the debtor and the lender.

21 “(e) CROSS REFERENCE.—See section 205(c) for tax  
22 on subsequent payments.

1 **“SEC. 603. TIMING OF TAX ON FINANCIAL INTERMEDIATION**  
2 **SERVICES.**

3 “The tax on financial intermediation services within  
4 the meaning of section 601 with respect to an underlying  
5 investment account or debt shall be imposed and collected  
6 with the same frequency that statements are rendered by  
7 the financial institution in connection with the investment  
8 account or debt but not less frequently than quarterly.

9 **“SEC. 604. FINANCING LEASES.**

10 “(a) **DEFINED.**—For purposes of this section, a fi-  
11 nancing lease shall be any lease under which the lessee  
12 has the right to acquire the property for 50 percent or  
13 less of its fair market value at the end of the lease term.

14 “(b) **IN GENERAL.**—Financing leases shall be taxed  
15 using the method set forth in this section.

16 “(c) **DETERMINATION OF PRINCIPAL AND INTEREST**  
17 **COMPONENTS OF FINANCING LEASE.**—The Secretary  
18 shall promulgate rules for disaggregating the principal  
19 and interest components of a financing lease. The prin-  
20 cipal amount shall be determined to the extent possible  
21 by examination of the contemporaneous sales price or  
22 prices of property the same or similar as the leased prop-  
23 erty.

24 “(d) **ALTERNATIVE METHOD.**—In the event that con-  
25 temporaneous sales prices of property the same or similar  
26 as the leased property are not available, the principal and

1 interest components of a financing lease shall be  
2 disaggregating using the applicable interest rate (as de-  
3 fined in section 2512) plus 4 percent.

4 “(e) PRINCIPAL COMPONENT.—The principal compo-  
5 nent of the financing lease shall be subject to tax as if  
6 a purchase in the amount of the principal component had  
7 been made on the day on which such lease was executed.

8 “(f) INTEREST COMPONENT.—The financial inter-  
9 mediation services amount with respect to the interest  
10 component of the financing lease shall be subject to tax  
11 under this subtitle.

12 “(g) COORDINATION.—

13 “(1) IN GENERAL.—If the principal component  
14 and financial intermediation services amount with  
15 respect to the interest component of a lease have  
16 been taxed pursuant to this section, then the gross  
17 lease or rental payments shall not be subject to addi-  
18 tional tax.

19 “(2) CROSS REFERENCE.—For the definition of  
20 taxable property and services, including as it relates  
21 to leases, see section 2.

22 **“SEC. 605. BASIC INTEREST RATE.**

23 “For purposes of this subchapter, the basic interest  
24 rate with respect to a debt instrument, investment, financ-  
25 ing lease or account shall be the applicable interest rate

1 (as determined in section 2512). For debt instruments,  
2 investments or accounts of contractually fixed interest, the  
3 applicable interest rate of the month of issuance shall  
4 apply. For debt instruments, investments or accounts of  
5 variable interest rates and which have no reference inter-  
6 est rate, the applicable interest rate shall be the Federal  
7 short-term interest rate for each month. For debt instru-  
8 ments, investments or accounts of variable interest rates  
9 and which have a reference interest rate, the applicable  
10 interest rate shall be the reference interest rate for each  
11 month.

12 **“SEC. 606. FOREIGN FINANCIAL INTERMEDIATION SERV-**  
13 **ICES.**

14 “(a) SPECIAL RULES RELATING TO INTERNATIONAL  
15 FINANCIAL INTERMEDIATION SERVICES.—Financial  
16 intermediation services shall be deemed as used or con-  
17 sumed within the United States if the person (or any af-  
18 filiated firm as defined in section 2 or a person’s spouse)  
19 purchasing the services is a resident of the United States.

20 “(b) DESIGNATION OF UNITED STATES TAX REP-  
21 RESENTATIVE.—Any person that provides financial inter-  
22 mediation services to United States residents must, as a  
23 condition of lawfully providing such services, designate, in  
24 a form prescribed by the Secretary, a United States tax  
25 representative for purposes of this subtitle. This United

1 States tax representative and the person providing finan-  
 2 cial intermediation services shall be responsible for ensur-  
 3 ing that the taxes imposed by this chapter are collected  
 4 and remitted and shall be jointly and severally liable for  
 5 collecting and remitting these taxes. The Secretary may  
 6 require reasonable bond of the United States tax rep-  
 7 resentative. The Secretary or a sales tax administering au-  
 8 thority may bring an action seeking a temporary restrain-  
 9 ing order, an injunction, or such other order as may be  
 10 appropriate to enforce this section.”.

11 **TITLE IV—BUSINESS TAX**  
 12 **ENACTED**

13 **SEC. 401. BUSINESS TAX.**

14 The Internal Revenue Code of 1986 is amended by  
 15 inserting after subtitle B the following new subtitle:

16 **“Subtitle C—Business Tax**

“Chapter 1. Imposition of tax.

“Chapter 2. Basic rules for business tax.

“Chapter 3. Capital contributions, mergers, acquisitions, and dis-  
 tributions.

“Chapter 4. Land and rental property.

“Chapter 5. Insurance and financial products.

“Chapter 6. Financial intermediation and financial institutions.

“Chapter 7. Tax-exempt organizations.

“Chapter 8. Cooperatives.

“Chapter 9. Sourcing rules.

“Chapter 10. Import tax.

17 **“CHAPTER 1—IMPOSITION OF TAX**

“Sec. 1101. Tax imposed.

1 **“SEC. 1101. TAX IMPOSED.**

2 “(a) TAXABLE BUSINESS ACTIVITY.—A business tax  
3 is imposed on the sale of taxable property and services  
4 in the United States by a business entity.

5 “(b) BUSINESS TAX.—The ‘business tax’ imposed on  
6 a business entity that sells or leases property or sells serv-  
7 ices in the United States equals 8.4 percent of the gross  
8 profit of the business entity for the taxable year.

9 “(c) TAXABLE EMPLOYERS.—A tax is hereby im-  
10 posed on taxable employers (as defined by section 2(s))  
11 equal to 8.4 percent of the wages and salary (as defined  
12 by section 2(w)) paid by such taxable employer. The tax  
13 imposed by this subsection is in addition to any tax im-  
14 posed by subtitle B.

15 “(d) IMPORT TAX.—For rules relating to the import  
16 tax imposed by this chapter, see section 2001.

17 **“CHAPTER 2—BASIC RULES FOR**  
18 **BUSINESS TAX**

“Sec. 1201. Gross profits.

“Sec. 1202. Taxable receipts.

“Sec. 1203. Deductible amounts.

“Sec. 1204. Cost of business purchases.

“Sec. 1205. Business entity and business activity.

“Sec. 1206. Loss carryover deduction.

19 **“SEC. 1201. GROSS PROFITS.**

20 “The term ‘gross profits’ means for a taxable year  
21 of a business entity the amount by which—

1           “(1) the taxable receipts of the business entity  
2           for the taxable year exceed,

3           “(2) the deductible amounts for the business  
4           entity for the taxable year.

5 **“SEC. 1202. TAXABLE RECEIPTS.**

6           “(a) IN GENERAL.—The term ‘taxable receipts’  
7           means all receipts from the sale of taxable property and  
8           services.

9           “(b) GAMES OF CHANCE.—Amounts received by busi-  
10          ness entities engaging in the activity of providing games  
11          of chance shall be treated as receipts from the sale of  
12          property or services.

13          “(c) IN-KIND RECEIPTS.—The taxable receipts at-  
14          tributable to the receipt of property, use of property or  
15          services in whole or partial exchange for property, use of  
16          property or services shall equal the fair market value of  
17          the services or property received, plus any cash received.

18          “(d) TAXES.—The term ‘taxable receipts’ does not  
19          include any excise tax, sales tax, custom duty, or other  
20          separately stated levy imposed by a Federal, State, or local  
21          government received by a business entity in connection  
22          with the sale of property or services or the use of property.

23          “(e) FINANCIAL RECEIPTS.—

24                 “(1) IN GENERAL.—Except as provided in  
25                 chapter 6 of this subtitle (relating to financial inter-

1 mediation and financial institutions), taxable re-  
2 cepts do not include financial receipts.

3 “(2) FINANCIAL RECEIPTS.—The term ‘finan-  
4 cial receipts’ includes—

5 “(A) interest,

6 “(B) dividends and other distributions by a  
7 business entity,

8 “(C) proceeds from the sale of stock, other  
9 ownership interests in business entities, or  
10 other financial instruments (as defined in chap-  
11 ter 6 of this subtitle),

12 “(D) proceeds from life insurance policies,

13 “(E) proceeds from annuities,

14 “(F) proceeds from currency hedging or  
15 exchanges, and

16 “(G) proceeds from other financial trans-  
17 actions.

18 “(f) CROSS REFERENCES.—

19 “(1) FINANCIAL INTERMEDIATION.—See chap-  
20 ters 5 and 6 of this subtitle for rules relating to fi-  
21 nancial intermediation.

22 “(2) EXPORTS, SALES IN THE UNITED  
23 STATES.—See section 1901 for the exclusion from  
24 gross receipts for export sales and for rules on sales  
25 of property and services in the United States.

1           “(3) INSURANCE PROCEEDS.—See section chap-  
2           ter 5 of this subtitle for rules on the inclusion of cer-  
3           tain insurance proceeds in taxable receipts.

4   **“SEC. 1203. DEDUCTIBLE AMOUNTS.**

5           “(a) IN GENERAL.—The term ‘deductible amounts’  
6           for a business entity in a taxable year includes—

7                   “(1) the cost of business purchases in the tax-  
8                   able year (as determined under section 1204),

9                   “(2) such entity’s loss carryover deduction (as  
10                  determined under section 1206), and

11                  “(3) the transition basis deduction (as deter-  
12                  mined under section 2801).

13           “(b) FINANCIAL INTERMEDIATION.—See chapters 5  
14           and 6 for special rules for business entities engaging in  
15           financial intermediation.

16   **“SEC. 1204. COST OF BUSINESS PURCHASES.**

17           “(a) BUSINESS PURCHASES.—

18                   “(1) IN GENERAL.—The term ‘business pur-  
19                   chases’ means the acquisition of—

20                           “(A) property,

21                           “(B) the use of property, or

22                           “(C) services,

23           for a business purpose in connection with a trade or  
24           business in the United States.

1           “(2) EXAMPLES.—Business purchases include  
2 (without limitation) the—

3           “(A) purchase or rental of real property,

4           “(B) purchase or rental of capital equip-  
5 ment,

6           “(C) purchase of supplies and inventory,

7           “(D) purchase of services from inde-  
8 pendent contractors (who are registered sellers),

9           “(E) purchase of financial intermediation  
10 services, and

11           “(F) imports for use in a business activity  
12 in the United States.

13           “(3) EXCLUSIONS.—The term ‘business pur-  
14 chases’ does not include—

15           “(A) payments for use of money or capital,  
16 such as interest or dividends (except to the ex-  
17 tent that a portion so paid is a fee for financial  
18 intermediation services),

19           “(B) premiums for life insurance,

20           “(C) the acquisition of savings assets or fi-  
21 nancial instruments,

22           “(D) property acquired outside the United  
23 States (but such property shall be taken into  
24 account as an import if imported),

1           “(E) services performed outside the United  
2 States (unless treated as imported into the  
3 United States),

4           “(F) compensation expenses for an indi-  
5 vidual (other than amounts paid to an indi-  
6 vidual in his capacity as a business entity), or

7           “(G) taxes (except as provided in sub-  
8 section (b)(2) relating to product taxes).

9           “(4) COMPENSATION EXPENSES.—The term  
10 ‘compensation expenses’ means—

11           “(A) wages, salaries, or other cash payable  
12 for services by employees,

13           “(B) any taxes imposed on the recipient  
14 that are withheld by the business entity,

15           “(C) the cost of property purchased to pro-  
16 vide employees with compensation (other than  
17 property incidental to the provision of fringe  
18 benefits that are excluded from income under  
19 the individual tax),

20           “(D) the cost of fringe benefits which are  
21 provided in connection with the services per-  
22 formed by the employee, partner or proprietor  
23 in their capacity as such, including (without  
24 limitation)—

1           “(i) contributions to retirement and  
2           severance benefit plans,

3           “(ii) premiums for the cost of life,  
4           health, accident, disability and other insur-  
5           ance policies for which the service provider,  
6           members of his family, or persons des-  
7           ignated by him or members of his family  
8           are the beneficiaries,

9           “(iii) the cost of providing parking to  
10          employees (unless the parking space is  
11          used for a vehicle that is regularly used in  
12          a business activity),

13          “(iv) employer-paid educational bene-  
14          fits,

15          “(v) employer-paid housing (other  
16          than housing provided for the convenience  
17          of the employer), and

18          “(vi) employer-paid meals (other than  
19          meals provided for the convenience of the  
20          employer).

21          “(b) COST OF BUSINESS PURCHASES.—

22                 “(1) IN GENERAL.—The term ‘cost of a busi-  
23                 ness purchase’ is the amount paid or to be paid for  
24                 the business purchase.

25                 “(2) TAXES.—

1           “(A) IN GENERAL.—The term ‘cost of  
2 business purchases’ includes any product taxes  
3 paid or to be paid with respect to the property  
4 or services purchased.

5           “(B) PRODUCT TAX.—The term ‘product  
6 tax’ means any excise tax, sales or use tax, cus-  
7 tom duty, or other separately stated levy im-  
8 posed by a Federal, State, or local government  
9 on the production, severance or consumption of  
10 property or on the provision of services, whether  
11 or not separately stated, and including any such  
12 taxes that are technically imposed on the seller  
13 of property or services.

14           “(C) TAXES NOT PRODUCT TAXES.—The  
15 term ‘product taxes’ does not include—

16                   “(i) the import tax (imposed by chap-  
17 ter 10),

18                   “(ii) State and local property taxes,

19                   “(iii) franchise or income taxes,

20                   “(iv) payroll taxes and self-employ-  
21 ment taxes, or

22                   “(v) the business tax (imposed by sec-  
23 tion 1101).

24           “(3) IMPORTS.—In the case of an import by a  
25 business entity, the cost of the import is the import

1 price for purposes of the import tax. The import tax  
2 is not part of the cost of the import.

3 “(c) PROPERTY AND SERVICES ACQUIRED FOR  
4 PROPERTY.—If a business entity receives property or serv-  
5 ices from a business entity in whole or partial exchange  
6 for property or services, the property or services acquired  
7 shall be treated as if such property and services were pur-  
8 chased for an amount equal to the fair market value of  
9 the services or property received, plus any cash received.  
10 For purposes of this section, property includes stock and  
11 other equity interests in business other than stock or an  
12 equity interest in the business entity acquiring the prop-  
13 erty or services. See chapter 3 for rules on property or  
14 services received in exchange for an equity interest in the  
15 recipient.

16 “(d) GAMBLING PAYMENTS.—In the case of a busi-  
17 ness involving gambling, lotteries, or other games of  
18 chance, business purchases include amounts paid to win-  
19 ners.

20 “(e) MIXED USE PROPERTY OR SERVICES.—Deduc-  
21 tions for property or services used both for a business pur-  
22 pose and otherwise shall be allowable only in proportion  
23 to the business use ratio as determined in accordance with  
24 section 505(a)(5), provided however that if property or  
25 services are used 95 percent or more for a business pur-

1 pose during a taxable year, then the property or service  
2 shall be deemed used exclusively for a business purpose.

3 “(f) CROSS REFERENCES.—

4 “(1) FINANCIAL INTERMEDIATION AND INSUR-  
5 ANCE.—For rules relating to fees for financial inter-  
6 mediation services and insurance, see subchapter F.

7 “(2) LAND.—For special rules relating to the  
8 acquisition of land, see subchapter E.

9 “(3) OUTSIDE THE UNITED STATES.—For spe-  
10 cial rules relating to services performed outside the  
11 United States but used inside the United States and  
12 international services, see chapter 9.

13 **“SEC. 1205. BUSINESS ENTITY AND BUSINESS ACTIVITY.**

14 “(a) BUSINESS ENTITY.—For purposes of the busi-  
15 ness tax, the term ‘business entity’ means any corporation,  
16 unincorporated association, partnership, limited liability  
17 company, proprietorship, independent contractor, indi-  
18 vidual, or any other person engaging in business activity  
19 in the United States. An individual shall be considered a  
20 business entity only with respect to the individual’s busi-  
21 ness activities.

22 “(b) BUSINESS ACTIVITY.—The term ‘business activ-  
23 ity’ means the sale of property or services, the leasing of  
24 property, the development of property or services for sub-

1 sequent sale or use in producing property or services for  
2 subsequent sale. Such term does not include—

3 “(1) casual or occasional sales of property used  
4 by an individual (other than in a business activity),  
5 such as the sale by an individual of a vehicle used  
6 by the individual, or

7 “(2) sales by a business entity with gross reve-  
8 nues of \$1,200 annually or less.

9 “(c) EXCEPTION FOR CERTAIN EMPLOYEES.—

10 “(1) IN GENERAL.—The term ‘business activity’  
11 does not include—

12 “(A) the performance of services by an em-  
13 ployee for an employer that is a business entity  
14 with respect to the activity in which the em-  
15 ployee is engaged, or

16 “(B) the performance of regular domestic  
17 household services (including babysitting,  
18 housecleaning, and lawn cutting)—

19 “(i) by an employee that is com-  
20 pensated in an amount less than \$5,000  
21 annually, or

22 “(ii) by an employer that is an indi-  
23 vidual or family.

24 “(2) EMPLOYEE DEFINED.—For purposes of  
25 this subsection, the term ‘employee’ includes an indi-

1       vidual partner who provides services to a partner-  
2       ship, an individual member who provides services to  
3       a limited liability company, or a proprietor with re-  
4       spect to compensation for services from his propri-  
5       etorship.

6       **“SEC. 1206. LOSS CARRYOVER DEDUCTION.**

7       “(a) DEDUCTION.—The loss carryover deduction for  
8       a taxable year is the lesser of—

9               “(1) the business entity’s gross profits for the  
10       taxable year (determined without the loss carryover  
11       deduction), or

12               “(2) the amount of the loss carryover to the  
13       taxable year.

14       “(b) LOSS CARRYOVER.—

15               “(1) GENERAL RULE.—A loss for any taxable  
16       year may be a loss carryover to each of the 10 tax-  
17       able years following the taxable year of the loss.

18               “(2) LOSS CARRYOVERS TO A TAXABLE YEAR.—

19       The loss carryover to a taxable year is the sum of  
20       the loss carryovers from all prior taxable years be-  
21       ginning on or after January 1, 2007, that can be  
22       carried over to the taxable year.

23               “(3) REDUCTION OF LOSS CARRYOVERS AS A  
24       RESULT OF THE DEDUCTION.—A business entity’s  
25       loss carryovers shall be reduced each year by the

1 amount of the loss carryover deduction for the year.

2 Loss carryovers shall be reduced in the order that  
3 such carryovers arose.

4 “(c) LOSS FOR TAXABLE YEAR.—A business entity’s  
5 loss (if any) for the taxable year equals the excess (if any)  
6 of—

7 “(1) the sum of—

8 “(A) the cost of business purchases for the  
9 taxable year, and

10 “(B) the transition basis adjustment for  
11 the taxable year, over

12 “(2) taxable receipts for the taxable year.

13 “(d) SPECIAL RULES.—

14 “(1) CONSOLIDATED RETURNS.—In the case of  
15 a consolidated return, the loss for a taxable year  
16 shall be determined on a consolidated group basis.  
17 In the case of a deconsolidation, the loss carryovers  
18 from the consolidated group shall be allocated in ac-  
19 cordance with rules to be prescribed by the Sec-  
20 retary.

21 “(2) LOSS CARRYOVERS OF ACQUIRED BUSI-  
22 NESS ENTITY.—

23 “(A) IN GENERAL.—If a business entity  
24 acquires another business entity in a trans-  
25 action that is considered the acquisition of a

1 business entity and the 2 entities file a consoli-  
2 dated return or if 2 business entities merge, the  
3 loss carryovers will survive and can be applied  
4 against the taxable receipts attributable to the  
5 business activities carried on (or in the case of  
6 a merger formerly carried on) by either entity.

7 “(B) ASSET ACQUISITION.—If a business  
8 entity acquires all or substantially all of the as-  
9 sets of another entity in a transaction that is  
10 considered an asset acquisition rather than the  
11 acquisition of a business entity, the acquirer  
12 will be treated as if it acquired the loss  
13 carryovers of the selling entity. For purposes of  
14 this rule, the assets of a business entity include  
15 ownership interests in other business entities.

16 “(C) SUBSTANTIALLY ALL.—For purposes  
17 of this paragraph, the term ‘substantially all’  
18 means more than 80 percent of the fair market  
19 value of a business entity’s net assets. Under  
20 rules prescribed by the Secretary, the parties to  
21 a transaction may elect to treat acquisitions in  
22 excess of 70 percent of the fair market value of  
23 a business entity’s net assets as acquisitions of  
24 ‘substantially all’ of a business entity’s net as-  
25 sets.

1 **“CHAPTER 3—CAPITAL CONTRIBUTIONS,**  
2 **MERGERS, ACQUISITIONS, AND DIS-**  
3 **TRIBUTIONS**

“Sec. 1301. Contributions to a business.

“Sec. 1302. Distributions of property.

“Sec. 1303. Asset acquisitions.

“Sec. 1304. Mergers and stock acquisitions.

“Sec. 1305. Spinoffs, splitoff, etc.

“Sec. 1306. Allocation of certain tax attributes.

4 **“SEC. 1301. CONTRIBUTIONS TO A BUSINESS ENTITY.**

5 “(a) BY BUSINESS ENTITY.—

6 “(1) CASH.—If a business entity contributes  
7 cash to a business entity of which it is or becomes  
8 a partial or full owner, the amount contributed is  
9 not a deductible amount to the contributor or a tax-  
10 able receipt to the recipient.

11 “(2) PROPERTY OR SERVICES.—If a business  
12 entity contributes property or services to a business  
13 entity of which it is or becomes a partial or full  
14 owner, the transaction will not result in taxable re-  
15 cepts to the contributor or a deduction for a busi-  
16 ness purchase for the recipient and will not con-  
17 stitute a sale resulting in taxable receipts to the con-  
18 tributor.

19 “(b) BY INDIVIDUAL.—

20 “(1) CASH.—If an individual contributes cash  
21 to a business entity, the cash received is not a tax-  
22 able receipt.

1           “(2) NEW PROPERTY.—If an individual contrib-  
2           utes to a business entity property that the individual  
3           purchased for the business entity and which was not  
4           used by any person after its purchase, the property  
5           shall be considered purchased by such business enti-  
6           ty from the person from whom the individual pur-  
7           chased the property and the basis of such property  
8           in the hands of the business entity shall be the such  
9           basis in the hands of the individual.

10           “(3) PERSONAL USE PROPERTY.—

11           “(A) IN GENERAL.—If an individual con-  
12           tributes personal use property to a business en-  
13           tity in which the individual has an ownership  
14           interest or for which the individual receives an  
15           ownership interest, the business entity shall not  
16           be permitted to deduct the value of the property  
17           received as a business expense. The business  
18           entity will have a tax basis in the contributed  
19           property equal to the contributor’s basis.

20           “(B) PERSONAL USE PROPERTY.—The  
21           term ‘personal use property’ means any prop-  
22           erty used by an individual at any time other  
23           than in a business activity.

24           “(4) SERVICES.—If an individual contributes  
25           services to a business entity in which the individual

1 has an ownership interest or receives an ownership  
2 interest, the business entity shall not be permitted to  
3 deduct the value of the services received (or the  
4 value of the equity interest provided to the services  
5 provider).

6 **“SEC. 1302. DISTRIBUTIONS OF PROPERTY.**

7 “(a) DISTRIBUTIONS OTHER THAN TO CONTROL-  
8 LING BUSINESS.—If a business entity distributes all or a  
9 portion of its assets to its owners (other than a controlling  
10 business entity), the business entity will be treated as if  
11 it sold the assets to its owners at fair market value. The  
12 fair market value will be determined by the distributing  
13 corporation and those determinations, unless unreason-  
14 able, will be binding on the recipients.

15 “(b) DISTRIBUTIONS TO A CONTROLLING BUSI-  
16 NESS.—If a business entity distributes all or a portion of  
17 its assets to a controlling business, the controlling busi-  
18 ness will assume the distributing entity’s tax attributes  
19 with respect to the assets and neither entity will have tax-  
20 able receipts or a deduction as a result of the transaction.

21 “(c) CONTROLLING BUSINESS ENTITY.—A business  
22 entity is a ‘controlling business entity’ with respect to an-  
23 other business entity if it owns directly or indirectly more  
24 than 50 percent of the profits or capital interest in the  
25 other business entity.

1       “(d) APPLICATION OF THIS SECTION.—This section  
2 applies to both liquidating and nonliquidating distribu-  
3 tions. Property shall be treated as distributed if the prop-  
4 erty is used for a nonbusiness purpose for more than an  
5 insubstantial period of time during a taxable year. See  
6 chapter 4 for rules relating to certain rental property.

7       **“SEC. 1303. ASSET ACQUISITIONS.**

8       “(a) IN GENERAL.—If a business entity transfers  
9 some or all of its assets, the consideration received for  
10 such assets shall be allocated among the assets transferred  
11 in the same manner as was required by section 1060 of  
12 the Internal Revenue Code of 1986. If the transferee and  
13 transferor agree in writing on the allocation of any consid-  
14 eration, or as to the fair market value of any of the assets,  
15 such agreement shall be binding on both the transferor  
16 and transferee unless the Secretary determines that such  
17 allocation (or fair market value) is not appropriate.

18       “(b) TAX CONSEQUENCES.—The tax consequences of  
19 an asset acquisition shall be determined in accordance  
20 with the rules of this chapter and shall be dependent upon  
21 allocations made under subsection (a). In general, consid-  
22 eration allocable to savings assets, such as stock in an-  
23 other business entity, would not be included in taxable re-  
24 ceipts of the transferor and would not be a business pur-  
25 chase of the purchaser, but consideration allocable to the

1 sale of tangible property and intangible property (other  
2 than savings assets) will constitute taxable receipts to the  
3 seller and a business purchase by the purchaser.

4       “(c) ELECTION TO TREAT ASSET ACQUISITION AS A  
5 STOCK ACQUISITION.—In the case of the sale of substan-  
6 tially all of the assets of a business entity or substantially  
7 all of the assets of a line of business or a separately stand-  
8 ing business of a business entity, the transferee and trans-  
9 feror can jointly elect to treat the acquisition as if it were  
10 an acquisition of the stock of a business entity holding  
11 the assets so transferred. In such case, the rules of section  
12 1304 shall apply.

13       “(d) AUTHORITY TO REQUIRE ALLOCATION AGREE-  
14 MENT AND NOTICE TO THE SECRETARY.—If the Sec-  
15 retary determines that certain types of asset acquisitions  
16 have significant possibilities of tax avoidance, the Sec-  
17 retary may require—

18               “(1) parties to such types of acquisitions to  
19 enter into agreements allocating consideration,

20               “(2) parties to acquisitions involving certain  
21 kinds of assets to enter into agreements allocating  
22 part of the consideration to those assets, or

23               “(3) parties to certain acquisitions to report in-  
24 formation to the Secretary.

1       “(e) ASSET ACQUISITION RULES DO NOT APPLY IF  
2 CONSIDERATION INCLUDES EQUITY IN PURCHASER.—

3           “(1) IN GENERAL.—If a business entity issues  
4 its own equity or equity in a subsidiary or other con-  
5 trolled entity as part of the consideration for the  
6 transfer of assets to it, the transaction shall not be  
7 treated as an asset acquisition and the rules of sec-  
8 tion 1304 shall apply.

9           “(2) EQUITY.—For purposes of this subsection,  
10 the term ‘equity’ means—

11           “(A) stock, in the case of a corporation,

12           “(B) a partnership or similar interest, in  
13 the case of a partnership or limited liability  
14 company, and

15           “(C) an ownership interest or interest in  
16 profits in the case of any other business entity.

17 **“SEC. 1304. MERGERS AND STOCK ACQUISITIONS.**

18       “(a) MERGERS.—A merger of 1 business entity into  
19 another or 2 businesses entities into a 3rd business entity  
20 or any other similar transaction shall have no direct con-  
21 sequences under the business tax. The surviving entity  
22 shall assume the tax attributes of the merged corpora-  
23 tions, including any loss carryovers and credit carryovers.

24       “(b) STOCK ACQUISITION.—The acquisition of all or  
25 substantially all of the ownership interest in 1 business

1 entity either for cash or in exchange for ownership in the  
 2 acquiring entity or an entity controlled by the acquired  
 3 entity shall have no direct consequences under the busi-  
 4 ness tax.

5 **“SEC. 1305. SPINOFFS, SPLITOFF, ETC.**

6 “A spinoff, splitoff, or splitup of a business entity  
 7 shall have no direct tax consequences under the business  
 8 tax.

9 **“SEC. 1306. ALLOCATION OF CERTAIN TAX ATTRIBUTES.**

10 “The Secretary shall prescribe rules for allocation of  
 11 loss carryovers in cases of substantial shifts of assets from  
 12 1 business entity to another business entity. Under such  
 13 rules, a portion of a business entity’s carryovers may be  
 14 deemed transferred when assets are transferred.

15 **“CHAPTER 4—LAND AND RENTAL**  
 16 **PROPERTY**

“Sec. 1401. No deduction for land purchased for nonbusiness use.

“Sec. 1402. Taxable receipts for land held for nonbusiness use.

“Sec. 1403. Certain rental property.

17 **“SEC. 1401. NO DEDUCTION FOR LAND PURCHASED FOR**  
 18 **NONBUSINESS USE.**

19 “(a) IN GENERAL.—The acquisition of unimproved  
 20 land shall not constitute a business purchase if the unim-  
 21 proved land is not acquired to be used in a business activ-  
 22 ity or if the land is acquired for use in compensating em-  
 23 ployees.

1       “(b) UNIMPROVED LAND.—The term ‘unimproved  
2 land’ means—

3               “(1) land with no buildings on it,

4               “(2) land with improvements if the value of the  
5 improvements is relatively small in comparison to  
6 the value of the land and it is anticipated that the  
7 improvements will be demolished and not used, or

8               “(3) land in excess of the amount reasonably  
9 needed for the buildings located on it.

10       “(c) CONVERSION TO BUSINESS USE.—If the acqui-  
11 sition of land is not treated as a business purchase by rea-  
12 son of subsection (a) and the land is subsequently used  
13 in a manner for which it could have been treated as a  
14 business purchase, the cost of the land will be treated as  
15 a business purchase when the improvements on the land  
16 are placed in service (or in the case of construction for  
17 sale, substantially completed and advertised for sale).

18       **“SEC. 1402. TAXABLE RECEIPTS FOR LAND HELD FOR NON-  
19                               BUSINESS USE.**

20       “(a) TAX BASIS.—A business entity shall have a tax  
21 basis in land equal to the cost of the land if such cost  
22 is not deductible by reason of section 1401.

23       “(b) TAXABLE RECEIPTS OF A LAND SALE.—The  
24 taxable receipts from the sale of land (or portion thereof)  
25 in which a business entity has a tax basis by reason of

1 subsection (a) shall be the amount by which the proceeds  
 2 exceed the basis of such land (or portion thereof).

3 **“SEC. 1403. CERTAIN RENTAL PROPERTY.**

4 “(a) IN GENERAL.—Except as provided in subsection  
 5 (b), the activity of rental of real estate is a business activ-  
 6 ity to which the business tax applies.

7 “(b) NOT RENTAL PROPERTY.—

8 “(1) IN GENERAL.—If the owners of property  
 9 use the property for at least 14 days during the tax-  
 10 able year for a nonbusiness purpose and rent the  
 11 property for no more than 14 days during the tax-  
 12 able year, the property shall not be considered rental  
 13 property or used in the activity of rental of real es-  
 14 tate during the taxable year for purposes of the  
 15 business tax.

16 “(2) NONBUSINESS USE.—For purposes of this  
 17 section, the term ‘use for a nonbusiness purpose’  
 18 means use other than—

19 “(A) use for which fair rent is paid,

20 “(B) use in connection with the prepara-  
 21 tion of the property for rental, or

22 “(C) use that serves a clear business pur-  
 23 pose.

24 Use during any part of a day shall constitute use for  
 25 that day.



1 **“SEC. 1502. FEES FOR FINANCIAL INTERMEDIATION SERV-**  
2 **ICES.**

3 “(a) **BUSINESS PURCHASES.**—Business purchases in-  
4 clude explicit fees and implicit fees (within the meaning  
5 of section 603(a)(3)) for financial intermediation services  
6 (except to the extent that such fees are for services treated  
7 as performed outside the United States and not imported  
8 into the United States or for services treated as ex-  
9 ported.).

10 “(b) **FINANCIAL INTERMEDIATION SERVICES.**—The  
11 definition of ‘financial intermediation service’ in section  
12 1601 applies for purposes of this section.

13 “(c) **EXPLICIT FEES.**—

14 “(1) **IN GENERAL.**—The term ‘explicit fees for  
15 financial intermediation services’ means separately  
16 stated fees for services provided by a business entity  
17 in the financial intermediation business. Explicit fees  
18 do not include fees for use of money or capital.

19 “(2) **EXAMPLES.**—Explicit fees for financial  
20 intermediation services include (without limita-  
21 tion)—

22 “(A) separately listed maintenance and  
23 service charges of providers of financial inter-  
24 mediation services,

25 “(B) loan documentation fees,

26 “(C) brokerage fees,

1           “(D) safe deposit box fees,

2           “(E) mutual fund sales, management or  
3           exit fees,

4           “(F) loan origination, processing, docu-  
5           mentation, or similar fees,

6           “(G) underwriting fees,

7           “(H) trustees’ fees, and

8           “(I) fees for credit checks.

9           “(3) EXCLUSIONS.—Explicit fees for financial  
10          intermediation services do not include prepaid inter-  
11          est and other fees for use of money or capital even  
12          if such fees are separately stated or are labeled as  
13          service fees.

14       **“SEC. 1503. DEDUCTIBLE INSURANCE PREMIUMS.**

15          “(a) IN GENERAL.—The cost of insurance premiums  
16          on business loss policies to the extent that such policies  
17          insure risks in the United States constitute costs of busi-  
18          ness purchases. Proceeds from such policies constitute tax-  
19          able receipts.

20          “(b) BUSINESS LOSS POLICY.—A ‘business loss pol-  
21          icy’ is an insurance policy—

22               “(1) owned by a business entity,

23               “(2) the beneficiary of which is the business en-  
24          tity or another business entity doing business with  
25          the owner of the policy,

1           “(3) that has no inside buildup or other savings  
2           component,

3           “(4) that covers losses on a loss incurred or  
4           claims made basis during the term of the policy,

5           “(5) that has a term of not more than 2 years,

6           “(6) that is not a direct or indirect form of  
7           compensation, and

8           “(7) that covers direct losses of the business,  
9           such as—

10           “(A) damage to or theft of property used  
11           in the business activity,

12           “(B) tort claims against the business,

13           “(C) loss of use of business premises or  
14           services,

15           “(D) malpractice, or

16           “(E) alleged or actual breach of fiduciary  
17           obligations.

18 **“SEC. 1504. NONDEDUCTIBLE INSURANCE PREMIUMS.**

19           “(a) NONDEDUCTIBILITY.—The cost of insurance  
20           policies that are not business loss policy policies are not  
21           deductible costs of business purchases.

22           “(b) PROCEEDS OF NONDEDUCTIBLE POLICIES.—In-  
23           surance proceeds from policies described in subsection (a)  
24           do not constitute taxable receipts.

1       “(c) APPLICATION OF THIS SECTION TO CERTAIN  
2 INSURANCE.—This section shall apply to life insurance  
3 policies.

4       **“SEC. 1505. CERTAIN IMPLICIT FEES FOR FINANCIAL**  
5                                   **INTERMEDIATION SERVICES.**

6       “(a) DEDUCTIBILITY OF FEES.—If a financial inter-  
7 mediation business (as defined in section 1601) elects to  
8 determine implicit fees for financial intermediation serv-  
9 ices pursuant to this section and notify its business cus-  
10 tomers of their share of the implicit fees in accordance  
11 with this section, a business entity which receives such no-  
12 tice may treat the amount reported in the notice as an  
13 implicit fee for financial intermediation services in the cal-  
14 endar year to which such notice relates.

15       “(b) ALLOCATION AND REPORTING.—

16               “(1) IN GENERAL.—A financial intermediation  
17 business may—

18                       “(A) allocate fees received for services for  
19 which no separately stated fees are charged  
20 among recipients of such services on a reason-  
21 able and consistent basis, and

22                       “(B) report to each recipient not later  
23 than February 15th of each year the amount so  
24 allocated to it with respect to the immediately  
25 preceding calendar year.

1           “(2) MAXIMUM FEES ALLOCATED.—The max-  
2           imum amount that may be allocated by a financial  
3           intermediation business for a calendar year is the  
4           excess of—

5                   “(A) the gross profits of the financial  
6                   intermediation business for the calendar year  
7                   (as reasonably estimated by the financial inter-  
8                   mediation business), over

9                   “(B) the explicit fees for financial inter-  
10                  mediation services received by the financial  
11                  intermediation business.

12           “(3) REASONABLE ALLOCATION.—An allocation  
13           will not be considered reasonable unless it takes into  
14           account and allocates fees to—

15                   “(A) both services provided to business en-  
16                   tities and services provided to individuals (other  
17                   than in a business capacity), and

18                   “(B) both persons who receive money from  
19                   the financial intermediation business and per-  
20                   sons who pay money to the financial intermedi-  
21                   ation business (even though amounts allocated  
22                   to the former do not constitute implicit fees).

23           “(4) REGULATIONS.—The Secretary shall pre-  
24           scribe regulations relating to the allocations under  
25           this subsection, including regulations addressing—



1       “(b) SEPARATE BUSINESS ACTIVITY.—The provision  
2 of financial intermediation services for unrelated persons  
3 shall be considered a separate business activity and a busi-  
4 ness shall be considered a separate entity with respect to  
5 such activity. An entity engaging in such business is re-  
6 ferred to in this chapter as a ‘financial intermediation  
7 business’.

8       “(c) INTERNAL FINANCIAL INTERMEDIATION BY A  
9 BUSINESS.—A business entity that provides financial  
10 intermediation services for itself and related parties but  
11 generally does not provide such services for unrelated par-  
12 ties is not a financial intermediation business.

13       “(d) DEFINITIONS.—

14               “(1) FINANCIAL INTERMEDIATION SERVICES.—

15       The term ‘financial intermediation services’ in-  
16 cludes—

17                       “(A) lending services,

18                       “(B) insurance services,

19                       “(C) market-making and dealer services,

20       and

21                       “(D) any other service provided as busi-  
22 ness activity in which a person acts as an inter-  
23 mediary in—

24                               “(i) the transfer of property, services,  
25                               or financial assets, liabilities, risks or in-

1           struments (or income or expense derived  
2           therefrom) between 2 or more persons, or

3           “*(ii)* the pooling of economic risk  
4           among other persons and derives all or a  
5           portion of such person’s gross receipts  
6           from streams of income or expense, dis-  
7           counts, or other financial flows associated  
8           with the matter with respect to which such  
9           person is acting as an intermediary.

10           “(2) LENDING SERVICES.—The term ‘lending  
11           services’ means the regular making of loans and pro-  
12           viding credit to, or taking deposits from customers,  
13           but does not include an installment or delayed pay-  
14           ment arrangement provided by a seller of property  
15           or services under which additional charges or fees  
16           are imposed by the seller for the late payment.

17           “(3) MARKET-MAKING OR DEALER SERVICES.—  
18           The term ‘market-making or dealer services’ means  
19           services provided by a person who—

20           “*(A)* regularly purchases financial instru-  
21           ments from or sells financial instruments to  
22           customers in the ordinary course of a trade or  
23           business, or

24           “*(B)* regularly offers to enter into, assume,  
25           offset, assign, or otherwise terminate positions

1           in financial instruments with customers in the  
2           ordinary course of a trade or business.

3 **“SEC. 1602. GENERAL RULE FOR TAXATION.**

4           “(a) IN GENERAL.—In the case of a financial inter-  
5 mediation business, gross profits shall be computed by—

6           “(1) substituting financial receipts for taxable  
7 receipts, and

8           “(2) including financial expenses as business  
9 purchases.

10          “(b) DEFINITIONS.—

11           “(1) FINANCIAL RECEIPTS.—The term ‘finan-  
12 cial receipts’ means all receipts other than amounts  
13 received as contributions to capital.

14           “(2) FINANCIAL EXPENSES.—The term ‘finan-  
15 cial expenses’ includes—

16           “(A) payments for principal and interest  
17 that is properly allocable to the provision of fi-  
18 nancial intermediation services,

19           “(B) the cost of and payments under fi-  
20 nancial instruments (other than financial in-  
21 struments of the person subject to the tax im-  
22 posed under this chapter and any person re-  
23 lated to such person),

1           “(C) claims and cash surrender values paid  
2           in connection with insurance or reinsurance  
3           services, and

4           “(D) amounts paid for reinsurance.

5           “(3) FINANCIAL INSTRUMENT.—The term ‘fi-  
6           nancial instrument’ means any—

7           “(A) share of stock in a corporation,

8           “(B) equity ownership in any widely held  
9           or publicly traded partnership, trust, or other  
10          business entity,

11          “(C) note, bond, debenture, or other evi-  
12          dence of indebtedness,

13          “(D) interest rate, currency, or equity no-  
14          tional principal contract,

15          “(E) evidence or interest in, or a derivative  
16          financial instrument in, any financial instru-  
17          ment described in subparagraph (A), (B), (C),  
18          or (D), or any currency, including any option,  
19          forward contract, short position, and any simi-  
20          lar financial instrument in such a financial in-  
21          strument or currency, and

22          “(F) a position which—

23                  “(i) is not a financial instrument de-  
24                  scribed in subparagraph (A), (B), (C), (D)  
25                  or (E),

1           “(ii) is a hedge with respect to such  
2           a financial instrument, and

3           “(iii) is clearly identified in the deal-  
4           er’s records as being described in this sub-  
5           paragraph before the close of the day on  
6           which it was acquired or entered into.

7           “(c) INTERNATIONAL MATTERS.—For purposes of  
8           this section in the case of a financial intermediation busi-  
9           ness with activity in and outside the United States—

10           “(1) INCLUSION REGARDLESS OF SOURCE.—

11           “(A) Financial receipts shall be determined  
12           without regard to whether such receipts are re-  
13           ceived for property or service provided in or  
14           outside the United States, except that financial  
15           receipts do not include amounts that—

16           “(i) are not taxable receipts (as deter-  
17           mined without regard to this section), but

18           “(ii) would have been taxable receipts  
19           (as determined without regard to this sec-  
20           tion) if such receipts had been received for  
21           services or property in the United States.

22           “(B) Financial expenses shall be deter-  
23           mined without regard to whether such expenses  
24           are received for property or services acquired in  
25           or outside the United States.

1           “(2) ALLOCATION.—Under regulations pre-  
2           scribed by the Secretary, gross profits (as deter-  
3           mined without regard to this paragraph) shall be re-  
4           duced by the amount of financial intermediation  
5           gross profit attributable to financial intermediation  
6           activity provided outside the United States.

7           “(3) GROSS PROFIT ATTRIBUTABLE TO FINAN-  
8           CIAL INTERMEDIATION ACTIVITY.—The term ‘gross  
9           profits attributable to financial intermediation activ-  
10          ity’ means the excess of—

11                   “(A) gross profits as determined under  
12                   this section (but without regard to paragraph  
13                   (2)), over

14                   “(B) gross profits as determined without  
15                   regard to this subchapter.

16 **“SEC. 1603. SPECIAL RULE FOR BANKS.**

17           “(a) IN GENERAL.—In the case of a bank, gross prof-  
18           its shall be determined in accordance with section 1602,  
19           except that—

20                   “(1) FINANCIAL RECEIPTS.—Financial receipts  
21                   shall include only—

22                           “(A) taxable receipts (as determined with-  
23                           out regard to this subchapter),

24                           “(B) interest on loans made or acquired by  
25                           the bank,

1           “(C) gain on the sale of loans,

2           “(D) discount points received, and

3           “(E) any explicit fees for financial or fidu-  
4           ciary services not included in subparagraphs  
5           (A) through (D).

6           “(2) FINANCIAL EXPENSES.—Financial ex-  
7           penses shall include only—

8           “(A) interest paid to depositors and on  
9           other funds borrowed by the bank, and

10           “(B) reasonable additions to reserves for  
11           bad debts.

12           “(3) FORECLOSURE PROPERTY.—Gross profits  
13           shall properly take into account proceeds from the  
14           operation or sale of foreclosure property.

15           “(b) BANK.—

16           “(1) IN GENERAL.—The term ‘bank’ means a  
17           bank or trust company incorporated and doing busi-  
18           ness under the laws of the United States, the Dis-  
19           trict of Columbia, or any State, a substantial part  
20           of the business of which consists of receiving depos-  
21           its and making loans and discounts, or of exercising  
22           fiduciary powers similar to those exercised by na-  
23           tional banks under the authority of the Comptroller  
24           of the Currency, and which is subject by law to su-  
25           pervision and examination by State or Federal au-

1       thority having supervision over banking institutions  
2       or credit unions. Such term includes domestic build-  
3       ing and loan associations and credit unions.

4               “(2) OTHER ACTIVITIES.—If a bank is engaged  
5       in significant amounts of activities other than those  
6       described in paragraph (1), the bank shall be consid-  
7       ered as a separate business entity with respect to  
8       such other activity.

9       **“SEC. 1604. INSURANCE COMPANIES.**

10       “(a) IN GENERAL.—In the case of companies pro-  
11       viding insurance services, gross profits shall be determined  
12       in accordance with section 1602, except—

13               “(1) subsection (c) of section 1602 (relating to  
14       international operations) shall not apply, and

15               “(2) the rules of chapter 9 (sourcing rules)  
16       shall apply to determine financial receipts and finan-  
17       cial expenses.

18       “(b) RESULT INCONSISTENT WITH STATUTORY IN-  
19       TENT.—If an insurance company determines that the ap-  
20       plication of subsection (a) produces results inconsistent  
21       with the territorial approach of the business tax, it may  
22       apply to the Secretary for permission to apply section  
23       1602 in lieu of subsection (a).

1 **“SEC. 1605. FINANCIAL PASS-THRU ENTITIES.**

2       “(a) IN GENERAL.—In the case of a financial pass-  
3 thru entity, gross profits shall be determined in accord-  
4 ance with section 1602.

5       “(b) PASS-THRU ENTITY.—

6           “(1) IN GENERAL.—The term ‘pass-thru entity’  
7 means a business entity that is intended to serve as  
8 a conduit. The Secretary shall prescribe regulations  
9 defining pass-thru entity. Such term shall include—

10           “(A) entities that would qualify as regu-  
11 lated investment companies under the Internal  
12 Revenue Code of 1986,

13           “(B) entities that would qualify as real es-  
14 tate investment trusts under the Internal Rev-  
15 enue Code of 1986,

16           “(C) entities that would qualify as  
17 REMICs under the Internal Revenue Code of  
18 1986, and

19           “(D) partnerships whose purposes are to  
20 invest the funds of the partners in financial in-  
21 struments, distribute or reinvest the income  
22 from such investments, and distribute or rein-  
23 vest the proceeds from the sale of such instru-  
24 ments.

25       “(2) ENGAGEMENT IN BUSINESS ACTIVITY.—

26       An entity will not qualify as a pass-thru entity if it

1 engages in more than an insubstantial amount of  
 2 business activity (other than investing in and selling  
 3 financial instruments). The preceding sentence will  
 4 not apply if the business entity treats the business  
 5 activity as engaged in by a separate business entity  
 6 (separately subject to tax under this chapter).

7 **“CHAPTER 7—TAX-EXEMPT**  
 8 **ORGANIZATIONS**

“Sec. 1701. Exemption for governmental entities.

“Sec. 1702. Taxable activity of governmental entities.

“Sec. 1703. Tax-exempt organizations.

“Sec. 1704. Special rules for (c)(3) organizations.

“Sec. 1705. Tax on unrelated business activity.

“Sec. 1706. Unrelated business activity.

9 **“SEC. 1701. EXEMPTION FOR GOVERNMENTAL ENTITIES.**

10 “Except as provided in section 1702, a State, political  
 11 subdivision thereof, the District of Columbia and the gov-  
 12 ernment of any possession of the United States shall be  
 13 exempt from taxation under this subtitle on any gross  
 14 profits derived from the exercise of any inherently govern-  
 15 mental function.

16 **“SEC. 1702. TAXABLE ACTIVITY OF GOVERNMENTAL ENTI-**  
 17 **TIES.**

18 “(a) NOT INHERENTLY GOVERNMENTAL FUNC-  
 19 TION.—A governmental entity engaged in any business ac-  
 20 tivity that is not an inherently government function and  
 21 shall be subject to tax. The Secretary shall by regulation

1 prescribe rules for differentiating inherently governmental  
2 functions in accordance with this section.

3 “(b) CERTAIN ACTIVITIES TAXABLE.—For purposes  
4 of subsection (a), business activity of a type frequently  
5 provided by business entities subject to tax under this sub-  
6 title include (without limitation) the—

7 “(1) provision of transportation services,

8 “(2) provision of travel and tour services,

9 “(3) provision of public utility services,

10 “(4) provision of refuse collection and recycling  
11 services,

12 “(5) provision of athletic and recreational serv-  
13 ices,

14 “(6) provision of hospital services,

15 “(7) provision of printing services,

16 “(8) provision of water, sanitation and sewer  
17 services,

18 “(9) provision of food and restaurant services,

19 “(10) provision of music, theater and entertain-  
20 ment, and

21 “(11) provision of mail and delivery services.

22 “(c) CERTAIN ACTIVITIES INHERENTLY GOVERN-  
23 MENTAL.—For purposes of subsection (a), activities that  
24 are inherently governmental shall include (without limita-  
25 tion) the provision of public safety services (including fire,

1 police and defense services) and the provision of justice  
2 and courts.

3 “(d) PARITY WITH TAX-EXEMPT ORGANIZATIONS.—  
4 No governmental entity shall be subject to tax if it would  
5 not be subject to tax pursuant to section 1703 were it  
6 a private organization.

7 **“SEC. 1703. TAX-EXEMPT ORGANIZATIONS.**

8 “(a) EXEMPTION FROM TAXATION.—An organiza-  
9 tion described in subsection (c) shall be exempt from tax-  
10 ation under this chapter.

11 “(b) TAX ON UNRELATED BUSINESS ACTIVITY.—An  
12 organization exempt from taxation under subsection (a)  
13 shall be subject to tax to the extent provided in sections  
14 1705 and 1706, but shall be considered a tax-exempt orga-  
15 nization for purposes of any law that refers to tax-exempt  
16 organizations.

17 “(c) LIST OF EXEMPT ORGANIZATIONS.—The fol-  
18 lowing organizations are referred to in subsection (a):

19 “(1) TITLE HOLDING COMPANIES.—Corpora-  
20 tions organized for the exclusive purpose of holding  
21 title to property, collecting income therefrom, and  
22 turning over the entire amount thereof, less ex-  
23 penses, to an organization which itself is exempt  
24 under this section.

1           “(2) RELIGIOUS AND APOSTOLIC ORGANIZA-  
2           TIONS.—Religious or apostolic associations or cor-  
3           porations, if such associations or corporations have  
4           a common treasury or community treasury, even if  
5           such associations or corporations engage in business  
6           for the common benefit of the members, but only if  
7           such activity is treated as unrelated business activ-  
8           ity.

9           “(3) CHARITABLE, RELIGIOUS, AND EDU-  
10          CATIONAL ORGANIZATIONS.—Corporations, and any  
11          community chest, fund, or foundation, organized and  
12          operated exclusively for religious, charitable, sci-  
13          entific, literary, or educational purposes, or for the  
14          prevention of cruelty to children or animals, no part  
15          of the net earnings of which inures to the benefit of  
16          any private shareholder or individual, no substantial  
17          part of the activities of which is carrying on propa-  
18          ganda, or otherwise attempting, to influence legisla-  
19          tion, and which does not participate in, or intervene  
20          in (including the publishing or distributing of state-  
21          ments), any political campaign on behalf of (or in  
22          opposition to) any candidate for public office.

23          “(4) QUALIFIED BENEFIT PLAN OR TRUST.—A  
24          corporation, trust, or other organization described in

1 any of the following paragraphs of section 501(c) of  
2 the Internal Revenue Code of 1986—

3 “(A) paragraph (9) (relating to voluntary  
4 employees’ beneficiary associations),

5 “(B) paragraph (11) (relating to teachers’  
6 retirement funds),

7 “(C) paragraph (17) (relating to supple-  
8 mental unemployment compensation benefits),

9 “(D) paragraph (18) (certain grand-  
10 fathered pension trusts),

11 “(E) paragraph (21) (relating to Black  
12 Lung Act trusts),

13 “(F) paragraph (22) (relating to certain  
14 multiemployer trusts), or

15 “(G) paragraph (24) (relating to certain  
16 grandfathered ERISA trusts).

17 **“SEC. 1704. SPECIAL RULES FOR (C)(3) ORGANIZATIONS.**

18 “(a) NEW ORGANIZATIONS MUST NOTIFY SEC-  
19 RETARY.—Except as provided in subsection (b), an organi-  
20 zation shall not be treated as an organization described  
21 in section 1703(c)(3)—

22 “(1) unless such organization has given notice  
23 to the Secretary, in such manner as the Secretary  
24 may prescribe, that it is applying for recognition of  
25 such status, or

1           “(2) for any period before giving of such notice,  
2           if such notice is given after the time prescribed by  
3           the Secretary by regulations for giving notice under  
4           this subsection.

5           “(b) EXCEPTIONS.—Subsection (a) shall not apply  
6 to—

7           “(1) organizations which obtained recognition  
8           of tax-exempt status under section 501(c)(3) of the  
9           Internal Revenue Code of 1986,

10           “(2) churches, their integrated auxiliaries, and  
11           conventions and associations of churches,

12           “(3) any organization the gross receipts of  
13           which in each taxable year are not more than  
14           \$50,000, or

15           “(4) such other classes of organizations which  
16           the Secretary may exempt.

17 **“SEC. 1705. TAX ON UNRELATED BUSINESS ACTIVITY.**

18           “(a) IN GENERAL.—Each organization described in  
19           subsection (b) shall be subject to the business tax under  
20           section 1101 on its gross profits from its unrelated busi-  
21           ness activity.

22           “(b) ORGANIZATIONS SUBJECT TO TAX.—This sec-  
23           tion shall apply to organizations exempt from the business  
24           tax under section 1703.

1 **“SEC. 1706. UNRELATED BUSINESS ACTIVITY.**

2       “(a) IN GENERAL.—The term ‘unrelated business ac-  
3 tivity’ means any regularly carried on trade or business  
4 the conduct of which is not substantially related (aside  
5 from the need of such organization for income or funds  
6 or the use it makes of the profits derived) to the exercise  
7 or performance by such organization of its charitable, edu-  
8 cational, or other purpose or function constituting the  
9 basis for its exemption under section 1703

10       “(b) ADVERTISING, ETC., ACTIVITIES.—For pur-  
11 poses of this section, the term ‘trade or business’ includes  
12 any activity which is carried on for the production of in-  
13 come from the sale of goods or the performance of serv-  
14 ices. For purposes of the preceding sentence, an activity  
15 does not lose identity as a trade or business merely be-  
16 cause it is carried on within a larger aggregate of similar  
17 activities or within a larger complex of other endeavors  
18 which may, or may not, be related to the exempt purposes  
19 of the organization. Where an activity carried on for profit  
20 constitutes an unrelated trade or business, no part of such  
21 trade or business shall be excluded from such classification  
22 merely because it does not result in profit.

23       “(c) CERTAIN BUSINESS ACTIVITIES.—The conduct  
24 of certain trades or business shall be deemed per se unre-  
25 lated to an exempt purpose. These include (without limita-  
26 tion) the—

- 1           “(1) provision of travel and tour services,  
2           “(2) provision of public utility services,  
3           “(3) provision of refuse collection and recycling  
4 services,  
5           “(4) provision of athletic and recreational serv-  
6 ices,  
7           “(5) provision of hospital services,  
8           “(6) provision of water, sanitation and sewer  
9 services,  
10          “(7) provision of food and restaurant services,  
11          “(8) provision of map-making services,  
12          “(9) provision of laundry services,  
13          “(10) provision of music, theater, and enter-  
14 tainment, and  
15          “(11) provision of mail and delivery services.

16           **“CHAPTER 8—COOPERATIVES**

          “Sec. 1801. Patronage dividends of cooperatives.

17   **“SEC. 1801. PATRONAGE DIVIDENDS OF COOPERATIVES.**

18           “(a) PATRONAGE DIVIDENDS PAID BY SUPPLY CO-  
19 OPERATIVES.—A qualified patronage dividend paid by a  
20 supply cooperative to a patron shall be treated as if it is  
21 a refund of a portion of the amounts paid by the patron  
22 for goods, services, or use of capital. In general, if the  
23 supply cooperative included the amount received from the  
24 patron in taxable receipts, the dividend shall reduce tax-

1 able receipts in the year incurred. If the recipient of the  
2 dividend is a business entity which deducted the cost of  
3 business purchases to which the dividend related, the re-  
4 cipient will reduce its cost of business purchases by the  
5 amount of the dividend in the year the dividend is paid  
6 or incurred.

7       “(b) PATRONAGE DIVIDENDS PAID BY MARKETING  
8 COOPERATIVES.—A qualified patronage dividend paid to  
9 a patron by a marketing cooperative shall be treated as  
10 an upward price adjustment in the amount received by the  
11 patron for its goods marketed by the cooperative. In gen-  
12 eral, the cooperative will increase its cost of business pur-  
13 chases by the amount of the qualified patronage dividend  
14 and the recipient will increase its taxable receipts by the  
15 amount of the qualified patronage dividend.

16       “(c) DIVIDEND TREATMENT.—Only the portion of a  
17 patronage dividend that is not a qualified patronage divi-  
18 dend shall be treated as a dividend under this chapter and  
19 chapter 1.

20       “(d) DEFINITIONS.—

21               “(1) QUALIFIED PATRONAGE DIVIDEND.—The  
22 term ‘qualified patronage dividend’ means that part  
23 of a patronage dividend that is attributable to the  
24 patron’s allocable share of patronage earnings of a  
25 marketing cooperative or a supply cooperative.

1           “(2) SUPPLY COOPERATIVE.—The term ‘supply  
2 cooperative’ means a cooperative that sells goods or  
3 services to patrons and provided patronage dividends  
4 with respect to the quantity of purchases of the pa-  
5 trons.

6           “(3) MARKETING COOPERATIVE.—The term  
7 ‘marketing cooperative’ means a cooperative that  
8 sells goods produced by its members and provides  
9 patronage dividends to the members based on the  
10 quantities of goods sold or provided for sale.

11          “(e) SPECIAL RULES.—

12           “(1) NOTICES OF ALLOCATION AND PER-UNIT  
13 RETAIN CERTIFICATES.—Except as provided in  
14 paragraph (2), a notice of allocation, per-unit retain  
15 certificate, or other similar document shall not be  
16 treated as a patronage dividend until it is redeemed  
17 in cash or property.

18           “(2) OPPORTUNITY TO RECEIVE CASH.—If a  
19 patron is given an opportunity to receive a patron-  
20 age dividend in cash, but instead chooses to accept  
21 a per-unit retain certificate or a qualified notice of  
22 allocation, the patron will be treated as receiving  
23 cash and simultaneously contributing to the capital  
24 of the cooperative.

1           “(3) APPLICATION LIMITED TO QUALIFIED CO-  
 2 OPERATIVES.—Under rules to be prescribed by the  
 3 Secretary, this section shall apply only to coopera-  
 4 tives to which 1 of the following provisions of the In-  
 5 ternal Revenue Code of 1986 would have applied:

6           “(A) Section 501(c)(12) (relating to coop-  
 7 erative telephone companies and similar organi-  
 8 zations).

9           “(B) Section 501(c)(14) (relating to cer-  
 10 tain cooperative banks).

11           “(C) Section 521 (relating to farm co-  
 12 operatives).

13           “(D) Section 1381 (relating to coopera-  
 14 tives generally).

15           “(4) REGULATIONS.—The Secretary shall pre-  
 16 scribe regulations for the application of this section.  
 17 The regulations shall generally be consistent with  
 18 subchapter T of chapter 1 of the Internal Revenue  
 19 Code of 1986 except to the extent that such rules  
 20 are inconsistent with provisions of this chapter.

21           **“CHAPTER 9—SOURCING RULES**

          “Sec. 1901. Exports of property or services.

          “Sec. 1902. Imports of property or services.

          “Sec. 1903. Import or export of services.

          “Sec. 1904. International transportation services.

          “Sec. 1905. International communications.

          “Sec. 1906. Insurance.

          “Sec. 1907. Banking services.

1 **“SEC. 1901. EXPORTS OF PROPERTY OR SERVICES.**

2       “(a) GENERAL RULE.—Taxable receipts do not in-  
3 clude amounts received for property or services exported  
4 from the United States by the exporter thereof for use  
5 or consumption outside the United States.

6       “(b) EXPORT THROUGH NONBUSINESS ENTITY.—  
7 For purposes of subsection (a), if property or services are  
8 sold to a governmental entity or a tax-exempt organization  
9 for export and are exported other than in an activity of  
10 such entity which is subject to the business tax, then the  
11 seller of such property or services is deemed to be the ex-  
12 porter thereof.

13       “(c) EXPORT OF SERVICES.—See section 1903 for  
14 rules for determining whether services are exported or im-  
15 ported.

16 **“SEC. 1902. IMPORTS OF PROPERTY OR SERVICES.**

17       “(a) IN GENERAL.—The import of property or serv-  
18 ices for consumption in the United States shall constitute  
19 a business purchase if such property or service is to be  
20 used in a business activity in the United States. Property  
21 being held for sale or retail by a business entity that is  
22 in the business of selling goods shall be considered held  
23 for use in a business activity.

24       “(b) AMOUNT OF BUSINESS PURCHASE.—

25               “(1) IN GENERAL.—The cost of business pur-  
26 chases with respect to the import of property or

1 services for use or consumption in the United States  
2 is the customs value, price, or other amount used for  
3 purposes of determining the import tax under chap-  
4 ter 10.

5 “(2) IMPORT TAX.—The cost of business pur-  
6 chases does not include any import tax paid. No de-  
7 duction shall be allowed with respect to property or  
8 service imported by a business entity unless the im-  
9 port tax is paid with respect to such import.

10 **“SEC. 1903. IMPORT OR EXPORT OF SERVICES.**

11 “(a) IN GENERAL.—Except as otherwise provided in  
12 this subchapter or in rules prescribed under chapter 6 (re-  
13 lating to financial intermediation business), services shall  
14 not be treated as imported or exported from the location  
15 in which such services are performed.

16 “(b) IMPORT OF SERVICES.—A business entity shall  
17 be treated as importing a service if the benefit will be real-  
18 ized solely in connection with the United States business  
19 activities of the business entity.

20 “(c) EXPORT OF SERVICES.—A business will be  
21 treated as exporting a service if the benefit will be realized  
22 solely in connection with the activities of the purchaser  
23 occurring outside the United States.

1       “(d) SERVICES ACQUIRED FROM SERVICE PROVIDER  
2 THAT PROVIDES SERVICES IN AND OUTSIDE THE  
3 UNITED STATES.—

4           “(1) IN GENERAL.—If a business entity ac-  
5 quires services from a service provider that provides  
6 services both in and outside the United States and  
7 the service provider shows on the invoice where the  
8 services are provided—

9           “(A) the business entity shall treat the  
10 services as provided where stated on the invoice,  
11 and

12           “(B) the service provider shall treat as tax-  
13 able receipts any services listed as provided in  
14 the United States.

15           “(2) NO INVOICE.—If a business entity acquires  
16 services from a service provider that provides serv-  
17 ices both in and outside the United States and the  
18 service provider does not show on an invoice where  
19 such services are provided—

20           “(A) the business entity shall treat the  
21 services as if provided in the location to which  
22 payment is sent, and

23           “(B) the service provider shall treat as tax-  
24 able receipts any payments received in the  
25 United States.

1       “(e) SPECIAL RULES PREVAIL.—See sections 1904  
2 and 1905 for special rules relating to transportation and  
3 communication services.

4 **“SEC. 1904. INTERNATIONAL TRANSPORTATION SERVICES.**

5       “(a) TRANSPORTATION OF PROPERTY.—

6           “(1) TAXABLE RECEIPTS.—

7               “(A) EXPORTS.—Taxable receipts do not  
8 include receipts from the transportation of  
9 property exported from the United States.

10              “(B) IMPORTS.—Taxable receipts include  
11 receipts from transportation of property im-  
12 ported into the United States only if such costs  
13 are not taken into account in determining the  
14 import tax.

15              “(C) PRESUMPTIONS.—The Secretary shall  
16 prescribe regulations describing situations in  
17 which a transporter of property must presume  
18 that no import tax has been paid on the cost of  
19 its services.

20           “(2) BUSINESS PURCHASES.—

21               “(A) EXPORTS.—Business purchases do  
22 not include amounts paid or incurred for the  
23 cost of transportation of property exported from  
24 the United States.

1           “(B) IMPORTS.—Amounts paid or incurred  
2           for transportation of goods imported into the  
3           United States shall constitute a cost of business  
4           purchase only to the extent that such amounts  
5           are taken into account in determining the cus-  
6           toms value for purposes of the import tax.

7           “(b) TRANSPORTATION OF PASSENGERS.—

8           “(1) TAXABLE RECEIPTS.—Taxable receipts—

9           “(A) include receipts from the transpor-  
10          tation of passengers from the United States to  
11          a destination outside the United States, but

12          “(B) do not include receipts from the  
13          transportation of passengers from outside the  
14          United States to a destination in the United  
15          States.

16          “(2) BUSINESS PURCHASES.—Business pur-  
17          chases—

18          “(A) include amounts paid or incurred in  
19          a business activity for the transportation of  
20          passengers from the United States to a destina-  
21          tion outside the United States, but

22          “(B) do not include amounts paid or in-  
23          curred for transportation of passengers from  
24          outside the United States to a destination in  
25          the United States.

1           “(3) SIMPLIFYING RULES.—The Secretary may  
2           provide rules that simplify this subsection, including  
3           rules under which—

4                   “(A) half of receipts attributable to trans-  
5                   portation to or from the United States are  
6                   treated as taxable receipts,

7                   “(B) half of the cost for business trips to  
8                   and from the United States are treated as busi-  
9                   ness purchases, and

10                   “(C) all transportation expenses of a busi-  
11                   ness entity that has no regular business outside  
12                   the United States are treated as business pur-  
13                   chases.

14   **“SEC. 1905. INTERNATIONAL COMMUNICATIONS.**

15           “(a) IN GENERAL.—For purposes of section 1902,  
16           communications services shall be treated as provided at  
17           the point of origin of the communications and shall not  
18           be treated as imported or exported.

19           “(b) COMMUNICATIONS SERVICES.—Communications  
20           services include—

21                   “(1) telephone communications services,

22                   “(2) courier services (except in the case of  
23                   transportation of property that is imported or ex-  
24                   ported),

25                   “(3) satellite transmission services,

1           “(4) telegraph services,

2           “(5) facsimile transmission services, and

3           “(6) other similar services.

4   **“SEC. 1906. INSURANCE.**

5           “(a) IN GENERAL.—Insurance services will be treat-  
6 ed as provided at the location of the insurance company  
7 providing the services. Except as the Secretary may pre-  
8 scribe by regulations, insurance companies will be treated  
9 as providing services at the location to which insurance  
10 payments are made.

11          “(b) INSURED RISKS IN THE UNITED STATES.—If  
12 insurance services are provided outside the United States  
13 and the insured risk is located in the United States—

14           “(1) the insurance service shall be treated as  
15 imported,

16           “(2) the insurance premiums shall be subject to  
17 the import tax, and

18           “(3) payments of insurance benefits shall not be  
19 treated as imported.

20          “(c) INSURED RISK OUTSIDE THE UNITED  
21 STATES.—If insurance services are provided inside the  
22 United States and the insured risk is located outside the  
23 United States—

24           “(1) insurance services shall be treated as ex-  
25 ported, and

1           “(2) payments of insurance benefits shall be  
2           treated as payments for services outside the United  
3           States, and shall not be deducted as business pur-  
4           chases.

5           “(d) INSURANCE SERVICES.—The term ‘insurance  
6           services’ means the provision of insurance and services re-  
7           lated to insurance other than insurance that is treated as  
8           a savings asset within the meaning of section 2(p).

9           **“SEC. 1907. BANKING SERVICES.**

10          “The Secretary shall prescribe regulations on the lo-  
11          cation of banking services and the extent to which such  
12          services are to be treated as imported or exported.

13                           **“CHAPTER 10—IMPORT TAX**

                          “Sec. 2001. Imposition of tax on import of property.

                          “Sec. 2002. Imposition of tax on import of services.

                          “Sec. 2003. General rules for the import tax.

14          **“SEC. 2001. IMPOSITION OF TAX ON IMPORT OF PROPERTY.**

15          “(a) GENERAL RULE.—There is hereby imposed a  
16          tax equal to 8.4 percent of the customs value of all prop-  
17          erty entered into the United States for consumption, use  
18          or warehousing.

19          “(b) LIABILITY FOR TAX.—The tax imposed on the  
20          import of property by subsection (a) shall be paid by the  
21          person entering the property into the United States for  
22          consumption, use or warehousing. Such tax shall be due  
23          and payable at the time of import.

1       “(c) IMPORTS OF PREVIOUSLY EXPORTED PROP-  
2   ERTY.—In the case of any article that is classified under  
3   a heading or subheading of subchapter I or II of chapter  
4   98 of the Tariff Schedules of the United States, the tax  
5   under this section shall be imposed only on that portion  
6   of the customs value of such article that is dutiable under  
7   such heading or subheading.

8       “(d) IMPORTS FOR PERSONAL CONSUMPTION.—The  
9   import tax imposed by this section shall not apply to the  
10  first \$400 of goods imported per calendar year by a person  
11  who (1) is not a business entity or (2) if a business entity,  
12  imported such goods for a non-business purpose.

13  **“SEC. 2002. IMPOSITION OF TAX ON IMPORT OF SERVICES.**

14       “(a) GENERAL RULE.—There is hereby imposed a  
15  tax equal to 8.4 percent of the cost of all services treated  
16  as imported into the United States during the taxable year  
17  of the service recipient.

18       “(b) LIABILITY FOR THE TAX.—The tax on the im-  
19  port of services imposed by subsection (a) shall be paid  
20  by the person who receives the imported services. The tax  
21  shall be payable as if it were an addition to the business  
22  tax imposed by section 1101.

23       “(c) IMPORTED SERVICES.—For purposes of this sec-  
24  tion, services shall be treated as imported if such services  
25  are treated as imported under section 1903 (general rules

1 on import of services) or section 1906 (related to insur-  
2 ance).

3 “(d) SPECIAL RULE FOR INSURANCE.—The seller of  
4 insurance that is treated as imported under section 1906  
5 shall be liable for the collection of the tax imposed by sub-  
6 section (a) on the insurance and for paying such tax to  
7 the Secretary. The first sentence of subsection (b) (relat-  
8 ing to the person liable for the tax) shall apply to insur-  
9 ance only to the extent that the seller of the insurance  
10 services does not collect such tax.

11 **“SEC. 2003. GENERAL RULES FOR THE IMPORT TAX.**

12 “(a) IMPORT TAX.—The term ‘import tax’ means the  
13 tax imposed by section 2001 on the import of property  
14 and the tax imposed by section 2002 on the import of serv-  
15 ices.

16 “(b) NO CREDITS.—No credits shall be allowed  
17 against the import tax, other than credit for prior overpay-  
18 ment or credits for deposits of the import tax.”.

19 **TITLE V—TAX ADMINISTRATION**  
20 **AND TRANSITION**

21 **SEC. 501. TAX ADMINISTRATION AND TRANSITION.**

22 The Internal Revenue Code of 1986 is amended by  
23 inserting after subtitle C the following new subtitle:

1 **“Subtitle D—Administration and**  
 2 **Transition Matters**

“Chapter 1. Other administrative provisions.

“Chapter 2. Collection; appeals; taxpayer rights.

“Chapter 3. Accounting method rules.

“Chapter 4. Transition rules.

“Chapter 5. Additional matters.

3 **“CHAPTER 1—OTHER ADMINISTRATIVE**  
 4 **PROVISIONS**

“Sec. 2501. Reports and payments.

“Sec. 2502. Registration.

“Sec. 2503. Accounting.

“Sec. 2504. Registration certificates.

“Sec. 2505. Penalties.

“Sec. 2506. Burden of persuasion and burden of production.

“Sec. 2507. Attorneys and accountancy fees.

“Sec. 2508. Summons, examinations, audits, etc.

“Sec. 2509. Records.

“Sec. 2510. Tax to be separately stated and charged.

“Sec. 2511. Coordination with title 11.

“Sec. 2512. Applicable interest rate.

5 **“SEC. 2501. REPORTS AND PAYMENTS.**

6 “(a) IN GENERAL.—

7 “(1) SALES TAX REPORTS AND FILING  
 8 DATES.—On or before the 15th day of each month,  
 9 each person who is liable to collect and remit the tax  
 10 imposed by subtitle B by reason of section 103(a),  
 11 or liable to pay tax imposed by subtitle B which is  
 12 not collected pursuant to section 103(a) shall submit  
 13 to the appropriate sales tax administering authority  
 14 (in a form prescribed by the Secretary) a report re-  
 15 lating to the previous calendar month that sets  
 16 forth—

1           “(A) the gross payments referred to in sec-  
2           tion 101,

3           “(B) the tax collected under this chapter  
4           in connection with such payments,

5           “(C) the amount and type of any credit  
6           claimed, and

7           “(D) other information reasonably required  
8           by the Secretary or the sales tax administering  
9           authority for the administration, collection and  
10          remittance of the tax imposed by subtitle B.

11          “(2) BUSINESS TAX REPORTS AND FILING  
12          DATES.—On or before the 15th day of April of each  
13          year, each person that is liable to remit tax pursuant  
14          to subtitle C shall file a tax return in the form pre-  
15          scribed by the Secretary.

16          “(b) TAX PAYMENTS DATE.—

17                 “(1) SALES TAX.—The tax imposed by subtitle  
18                 B during any calendar month is due and shall be  
19                 paid to the appropriate sales tax administering au-  
20                 thority on or before the 15th day of the succeeding  
21                 month. Both Federal tax imposed by subtitle B and  
22                 conforming State sales tax (as defined in section 2)  
23                 (if any) shall be paid in 1 aggregate payment.

24                 “(2) BUSINESS TAX.—Business entities shall  
25                 pay estimated taxes equal to no less than 100 per-

1 cent of their estimated tax due under subtitle C  
2 within 15 days of the end of their taxable quarter.  
3 Any additional tax due shall be paid along with the  
4 business entities annual tax return.

5 “(3) CROSS REFERENCE.—See subsection (e)  
6 relating to remitting of separate segregated funds  
7 for sellers that are not small sellers.

8 “(c) EXTENSIONS FOR FILING REPORTS.—

9 “(1) AUTOMATIC EXTENSIONS FOR NOT MORE  
10 THAN 30 DAYS.—On application, an extension of not  
11 more than 30 days to file reports or returns required  
12 by this section shall be automatically granted.

13 “(2) OTHER EXTENSIONS.—On application, ex-  
14 tensions of 30 to 60 days to file such reports or re-  
15 turns shall be liberally granted by the sales tax ad-  
16 ministering authority or the Secretary, as the case  
17 may be, for reasonable cause. Extensions greater  
18 than 60 days may be granted by the sales tax ad-  
19 ministering authority or the Secretary, as the case  
20 may be, to avoid hardship.

21 “(3) NO EXTENSION FOR PAYMENT OF  
22 TAXES.—Notwithstanding paragraphs (1) and (2),  
23 no extension shall be granted with respect to the  
24 time for paying or remitting the taxes under subtitle  
25 B or subtitle C.

1       “(d) TELEPHONE REPORTING OF VIOLATIONS.—The  
2 Secretary shall establish a system whereby violation of the  
3 this title can be brought to the attention of the sales tax  
4 administering authority for investigation through the use  
5 of a toll-free telephone number and otherwise.

6       “(e) SEPARATE SEGREGATED ACCOUNTS.—

7           “(1) DEPOSIT REQUIREMENT.—Any registered  
8 seller that is a not a small seller shall deposit all  
9 sales taxes collected pursuant to section 103 in a  
10 particular week in a separate segregated account  
11 maintained at a bank or other financial institution  
12 within 3 business days of the end of such week.  
13 Such registered seller shall also maintain in that ac-  
14 count sufficient funds to meet the bank or financial  
15 institution minimum balance requirements, if any,  
16 and to pay account fees and costs.

17           “(2) SMALL SELLER DEFINED.—For purposes  
18 of this subsection, a small seller is any person that  
19 has not collected \$20,000 or more of the taxes im-  
20 posed by subtitle B in any of the previous 12  
21 months.

22           “(3) LARGE SELLERS.—Any seller that has col-  
23 lected \$100,000 or more of the taxes imposed by  
24 subtitle B in any of the previous 12 months is a  
25 large seller. A large seller shall remit to the sales tax

1 administering authority the entire balance of depos-  
2 ited taxes in its separate segregated account on the  
3 first business day following the end of the calendar  
4 week. The Secretary may by regulation require the  
5 electronic transfer of funds due from large sellers.

6 “(4) WEEK DEFINED.—For purposes of this  
7 subsection, the term ‘week’ shall mean the 7-day pe-  
8 riod ending on a Friday.

9 “(f) DETERMINATION OF REPORT FILING DATE.—  
10 A report filed pursuant to subsection (a) shall be deemed  
11 filed when—

12 “(1) deposited in the United States mail, post-  
13 age prepaid, addressed to the sales tax administering  
14 authority,

15 “(2) delivered and accepted at the offices of the  
16 sales tax administering authority,

17 “(3) provided to a designated commercial pri-  
18 vate courier service (as defined in section 2) for de-  
19 livery within 2 days to the sales tax administering  
20 authority at the address of the sales tax admin-  
21 istering authority, or

22 “(4) by other means permitted by the Sec-  
23 retary.

24 “(g) SECURITY REQUIREMENTS.—A large seller  
25 (within the meaning of subsection (e)(3)) shall be required

1 to provide security in an amount equal to the greater of  
2 \$100,000 or one and one-half times the seller's average  
3 monthly tax liability during the previous 6 calendar  
4 months. Security may be a cash bond, a bond from a sur-  
5 ety company approved by the Secretary, a certificate of  
6 deposit, or a State or United States Treasury bond. A  
7 bond qualifying under this subsection must be a con-  
8 tinuing instrument for each calendar year (or portion  
9 thereof) that the bond is in effect. The bond must remain  
10 in effect until the surety or sureties are released and dis-  
11 charged. Failure to provide security in accordance with  
12 this section shall result in revocation of the seller's section  
13 2502 registration. The security or part of the security, as  
14 the case may be, may be forfeited in favor of the Secretary  
15 to the extent of such tax due (plus interest if any) if a  
16 person who has provided security pursuant to this sub-  
17 section—

18           “(1) fails to pay an amount indicated in a final  
19           notice of amount due under this subtitle (within the  
20           meaning of section 2605(d)), and

21           “(2) no Taxpayer Assistance Order is in effect  
22           relating to the amount due, and

23           “(3) either the time for filing an appeal pursu-  
24           ant to section 2604 has passed or the appeal was de-  
25           nied, and

1           “(4) the amount due is not being litigated in  
2           any judicial forum.

3           “(h) REWARDS PROGRAM.—The Secretary is author-  
4 ized to maintain a program of awards wherein individuals  
5 that assist the Secretary or sales tax administering au-  
6 thorities in discovering or prosecuting tax fraud may be  
7 remunerated.

8           “(i) CROSS REFERENCE.—For interest due on taxes  
9 remitted late, see section 6601.

10 **“SEC. 2502. REGISTRATION.**

11           “(a) IN GENERAL.—Any person liable to collect and  
12 remit taxes pursuant to subtitle B or any business entity  
13 subject to the tax imposed by subtitle C who is engaged  
14 in a trade or business shall register as a seller with the  
15 sales tax administering authority and as a business tax-  
16 payer with the Secretary.

17           “(b) AFFILIATED FIRMS.—Affiliated firms (as de-  
18 fined in section 2) shall be treated as 1 person for pur-  
19 poses of this section. Affiliated firms may elect, upon giv-  
20 ing notice to the Secretary in a form prescribed by the  
21 Secretary, to treat separate firms as separate persons for  
22 purposes of this subtitle.

23           “(c) DESIGNATION OF TAX MATTERS PERSON.—  
24 Every person registered pursuant to subsection (a) shall  
25 designate a tax matters person who shall be an individual

1 whom the sales tax administering authority may contact  
2 regarding tax matters. Each person registered must pro-  
3 vide notice of a change in the identity of the tax matters  
4 person within 30 days of such change.

5 “(d) CERTIFICATES OF REGISTRATION.—The sales  
6 tax administering authority and the Secretary shall issue  
7 certificates of registration to registered sellers.

8 “(e) EFFECT OF FAILURE TO REGISTER.—Any per-  
9 son that is required to register and who fails to do so is  
10 hereby prohibited from selling taxable property or services.  
11 The Secretary or a sales tax administering authority may  
12 bring an action seeking a temporary restraining order, an  
13 injunction, or such other order as may be appropriate to  
14 enforce this section.

15 **“SEC. 2503. ACCOUNTING.**

16 “(a) CASH METHOD TO BE USED GENERALLY.—  
17 For purposes of subtitle B and subtitle C, persons shall  
18 report transactions using the cash method of accounting  
19 unless an election to use the accrual method of accounting  
20 is made pursuant to subsection (b) is made in the form  
21 prescribed by the Secretary.

22 “(b) ELECTION TO USE ACCRUAL METHOD.—A per-  
23 son may elect, in the form prescribed by the Secretary,  
24 with respect to a taxable year to remit taxes and report  
25 transactions using the accrual method of accounting.

1 **“SEC. 2504. REGISTRATION CERTIFICATES.**

2       “The sales tax administering authority and the Sec-  
3 retary shall issue certificates of registration to registered  
4 sellers and such other certificates as are necessary or may  
5 prove useful in the administration of the tax imposed by  
6 subtitle B or subtitle C.

7 **“SEC. 2505. PENALTIES.**

8       “(a) **FAILURE TO REGISTER.**—Each person who is  
9 required to register pursuant to section 2502 but fails to  
10 do so prior to notification by the sales tax administering  
11 authority shall be liable for a penalty of \$500.

12       “(b) **RECKLESS OR WILLFUL FAILURE TO COLLECT**  
13 **TAX.**—

14               “(1) **CIVIL PENALTY; FRAUD.**—Each person  
15 who is required to collect taxes imposed by subtitle  
16 B as part of a trade or business and recklessly or  
17 willfully fails to do so shall be liable for a penalty  
18 equal to the greater of \$500 or 20 percent of the tax  
19 not collected.

20               “(2) **CRIMINAL PENALTY.**—Each person who is  
21 required to collect taxes imposed by subtitle B as  
22 part of a trade or business and willfully fails to do  
23 so may be fined an amount up to the amount deter-  
24 mined in accordance with paragraph (1) or impris-  
25 oned for a period of not more than 1 year or both.

1       “(c) RECKLESS OR WILLFUL ASSERTION OF INVALID  
2 EXEMPTION.—

3           “(1) CIVIL PENALTY; FRAUD.—Each person  
4 who recklessly or willfully asserts an invalid inter-  
5 mediate or export sales exemption from the taxes  
6 imposed by subtitle B shall be liable for a penalty  
7 equal to the greater of \$500 or 20 percent of the tax  
8 not collected or remitted.

9           “(2) CRIMINAL PENALTY.—Each person who  
10 willfully asserts an invalid intermediate or export  
11 sales exemption from the taxes imposed by subtitle  
12 B may be fined an amount up to the amount deter-  
13 mined in accordance with paragraph (1) or impris-  
14 oned for a period of not more than 1 year or both.

15       “(d) RECKLESS OR WILLFUL FAILURE TO REMIT  
16 TAX COLLECTED.—

17           “(1) CIVIL PENALTY; FRAUD.—Each person  
18 who is required to remit taxes actually collected pur-  
19 suant to subtitle B and who recklessly or willfully  
20 fails to do so shall be liable for a penalty equal to  
21 the greater of \$1,000 or 40 percent of the tax not  
22 remitted.

23           “(2) CRIMINAL PENALTY.—Each person who is  
24 required to remit taxes actually collected pursuant to  
25 subtitle B and willfully fails to do so may be fined

1 an amount up to the amount determined in accord-  
2 ance with paragraph (1) or imprisoned for a period  
3 of not more than 2 years or both.

4 “(e) RECKLESS OR WILLFUL FAILURE TO PAY  
5 TAX.—Each person who is required to pay taxes imposed  
6 by subtitle B or C and recklessly or willfully fails to do  
7 so shall be liable for a penalty equal to the greater of \$500  
8 or 20 percent of the tax not paid.

9 “(f) PENALTY FOR LATE FILING.—

10 “(1) IN GENERAL.—In the case of a failure by  
11 any person who is required to file a report or return  
12 required by subtitle B or C on or before the due  
13 date for such report (determined with regard to any  
14 extension) and fails to do so, such person shall pay  
15 a penalty for each month or fraction thereof that  
16 such report is late equal to the greater of—

17 “(A) \$50, or

18 “(B) 0.5 percent of the gross payments  
19 (or, in the case of the business tax, gross prof-  
20 its or the value of the imported good or service)  
21 that is required to be shown on the report.

22 “(2) INCREASED PENALTY ON RETURNS FILED  
23 AFTER WRITTEN INQUIRY.—The amount of the pen-  
24 alty under paragraph (1) shall be doubled with re-  
25 spect to any report filed after a written inquiry with

1 respect to such report is received by the taxpayer  
2 from the sales tax administering authority.

3 “(3) The penalty imposed pursuant to this sub-  
4 section shall not exceed 12 percent.

5 “(4) EXCEPTIONS.—

6 “(A) REASONABLE CAUSE.—No penalty  
7 shall be imposed under this subsection with re-  
8 spect to any failure if it is shown that such fail-  
9 ure is due to reasonable cause.

10 “(B) OTHER WAIVER AUTHORITY.—In ad-  
11 dition to penalties not imposed by reason of  
12 subparagraph (A), the sales tax administering  
13 authority, on application, shall waive the pen-  
14 alty imposed by paragraph (1) once per reg-  
15 istered person per 24 month period. The pre-  
16 ceding sentence shall not apply to a penalty de-  
17 termined under paragraph (2).

18 “(g) PENALTY FOR WILLFULLY OR RECKLESSLY AC-  
19 CEPTING A FALSE INTERMEDIATE OR EXPORT SALES  
20 CERTIFICATE.—A person who willfully or recklessly ac-  
21 cepts a false intermediate or export sales certificate shall  
22 pay a penalty equal to 20 percent of the tax not collected  
23 by reason of such acceptance.

24 “(h) PENALTY FOR LATE REMITTANCE OR PAYMENT  
25 OF TAXES.—

1           “(1) IN GENERAL.—A person who is required  
2 to timely remit or pay taxes imposed by subtitle B  
3 or subtitle C and remits or pays taxes more than 1  
4 month after they are due shall pay a penalty equal  
5 to 1 percent per month (or fraction thereof) that the  
6 remittance or payment is late provided, however,  
7 that the penalty imposed pursuant to this subsection  
8 shall not exceed 24 percent.

9           “(2) EXCEPTIONS FOR REASONABLE CAUSE.—  
10 No penalty shall be imposed under paragraph (1)  
11 with respect to any late remittance if it is shown  
12 that such late remittance is due to reasonable cause.

13           “(i) PENALTY FOR FILING FALSE REBATE CLAIM.—

14           “(1) CIVIL PENALTY; FRAUD.—A person who  
15 willfully or recklessly files a false claim for a Family  
16 Consumption Allowance rebate shall—

17           “(A) pay a penalty equal to the greater of  
18 \$500 or 50 percent of the claimed annual re-  
19 bate amount not actually due, and

20           “(B) repay any rebates received as a result  
21 of the false rebate claim (together with inter-  
22 est).

23           “(2) CRIMINAL PENALTY.—A person who will-  
24 fully files a false claim for a Family Consumption  
25 Allowance rebate may be fined an amount up to the

1 amount determined in accordance with paragraph  
2 (1) or imprisoned for a period not more than 1 year  
3 or both.

4 “(j) PENALTY FOR BAD CHECK.—If any check or  
5 money order in payment of any amount due under this  
6 subtitle is not duly paid, in addition to other penalties pro-  
7 vided by law, the person who tendered such check shall  
8 pay a penalty equal to the greater of—

9 “(1) \$25, or

10 “(2) 2 percent of the amount of such check.

11 “(k) PENALTY FOR FAILURE TO MAINTAIN A SEPA-  
12 RATE SEGREGATED ACCOUNT.—Any person required to  
13 maintain a separate segregated account pursuant to sec-  
14 tion 2501(e) who fails to maintain such a separate seg-  
15 regated account shall pay a penalty of \$500.

16 “(l) PENALTY FOR FAILURE TO DEPOSIT COL-  
17 LECTED TAXES IN A SEPARATE SEGREGATED AC-  
18 COUNT.—Any person required to deposit collected taxes  
19 into a separate segregated account maintained pursuant  
20 to section 2501(e) who fails to timely deposit such taxes  
21 into the separate segregated account shall pay a penalty  
22 equal to 1 percent of the amount required to be deposited.  
23 The penalty imposed by the previous sentence shall be tri-  
24 pled unless such taxes have been deposited in the separate  
25 segregated account or remitted to the sales tax admin-

1 istering authority within 16 days of the date such deposit  
2 was due.

3       “(m) PENALTY FOR INSUFFICIENT ESTIMATED TAX  
4 PAYMENTS.—A business entity that does not make esti-  
5 mated tax payments with respect to the business tax equal  
6 to at least 90 percent of the actual tax due shall be subject  
7 to a penalty equal to 5 percent of such underpayment. A  
8 business entity that does not make estimated tax pay-  
9 ments with respect to the business tax equal to at least  
10 80 percent of the actual tax due shall be subject to a pen-  
11 alty equal to 10 percent of such underpayment, such pen-  
12 alty to be in lieu of the penalty imposed by the previous  
13 sentence.

14       “(n) JOINT AND SEVERAL LIABILITY FOR TAX MAT-  
15 TERS PERSON AND RESPONSIBLE OFFICERS.—The tax  
16 matters person (designated pursuant to section 2502(e))  
17 and responsible officers or partners of a firm shall be  
18 jointly and severally liable for the tax imposed by this sub-  
19 title and penalties imposed by this subtitle.

20       “(o) RIGHT OF CONTRIBUTION.—If more than 1 per-  
21 son is liable with respect to any tax or penalty imposed  
22 by this subtitle, each person who paid such tax or penalty  
23 shall be entitled to recover from other persons who are  
24 liable for such tax or penalty an amount equal to the ex-

1 cess of the amount paid by such person over such person's  
2 proportionate share of the tax or penalty.

3 “(p) CIVIL PENALTIES AND CRIMINAL FINES NOT  
4 EXCLUSIVE.—

5 “(1) The fact that a civil penalty has been im-  
6 posed shall not prevent the imposition of a criminal  
7 fine.

8 “(2) The fact that a criminal fine has been im-  
9 posed shall not prevent the imposition of a civil pen-  
10 alty.

11 “(q) FALSE CERTIFICATION.—A person making a  
12 false certification under section 202(d) shall pay a penalty  
13 equal to the greater of \$500 or 20 percent of the business  
14 use conversion credit falsely taken.

15 “(r) CIVIL PENALTIES NOT ADDITIVE.—More than  
16 1 civil penalty may not be imposed pursuant to this section  
17 as a result of the same act or omission.

18 “(s) CONFIDENTIALITY.—Any person who violates  
19 the requirements relating to confidentiality of tax informa-  
20 tion (as provided in section 2605(f)) may be fined up to  
21 \$10,000 or imprisoned for a period of not more than 1  
22 year or both.

23 “(t) CROSS REFERENCE.—For interest due on late  
24 payments, see section 6601.

1 **“SEC. 2506. BURDEN OF PERSUASION AND BURDEN OF PRO-**  
2 **DUCTION.**

3 “In all disputes concerning taxes imposed by this  
4 title, the person engaged in a dispute with the sales tax  
5 administering authority or the Secretary, as the case may  
6 be, shall have the burden of production of documents and  
7 records but the sales tax administering authority or the  
8 Secretary shall have the burden of persuasion. In all dis-  
9 putes concerning an exemption claimed by a purchaser,  
10 if the seller has on file an intermediate sale or export sale  
11 certificate from the purchaser and did not have reasonable  
12 cause to believe that the certificate was improperly pro-  
13 vided by the purchaser with respect to such purchase  
14 (within the meaning of section 103), then the burden of  
15 production of documents and records relating to that ex-  
16 emption shall rest with the purchaser and not with the  
17 seller.

18 **“SEC. 2507. ATTORNEYS AND ACCOUNTANCY FEES.**

19 “In all disputes concerning taxes imposed by this  
20 title, the person engaged in a dispute with the sales tax  
21 administering authority or the Secretary, as the case may  
22 be, shall be entitled to reasonable attorneys fees, account-  
23 ancy fees and other reasonable professional fees incurred  
24 in direct relation to the dispute unless the sales tax admin-  
25 istering authority or the Secretary establishes that its po-  
26 sition was substantially justified.

1 **“SEC. 2508. SUMMONS, EXAMINATIONS, AUDITS, ETC.**

2       “(a) Persons are subject to administrative summons  
3 by the sales tax administering authority and the Secretary  
4 for records, books, papers, documents and effects required  
5 to accurately determine liability for tax under this subtitle.  
6 A summons shall be served by the sales tax administering  
7 authority or the Secretary by an attested copy delivered  
8 in hand to the person to whom it is directed or left at  
9 his last known address. The summons shall describe with  
10 reasonable certainty what is sought.

11       “(b) The sales tax administering authority and the  
12 Secretary have the authority to conduct at a reasonable  
13 time and place examinations and audits of persons who  
14 are or may be liable to collect and remit tax imposed by  
15 this subtitle and to examine the records, books, papers,  
16 documents and effects of such persons which may be rel-  
17 evant and material to the determination of tax due.

18       “(c) No administrative summons may be issued by  
19 the sales tax administering authority or the Secretary and  
20 no action may be commenced to enforce an administrative  
21 summons with respect to any person if a Justice Depart-  
22 ment referral or referral to a State Attorney General’s Of-  
23 fice is in effect with respect to such person relating to  
24 a tax imposed by this subtitle (or relating to a conforming  
25 State sales tax). Such referral is in effect with respect to  
26 any person if the sales tax administering authority or the

1 Secretary has recommended to the Justice Department or  
2 a State Attorney General's Office a grand jury investiga-  
3 tion of such person or a criminal prosecution of such per-  
4 son that contemplates criminal sanctions under this title.  
5 A referral shall be terminated when—

6           “(1) the Justice Department or a State Attor-  
7           ney General's Office notifies the sales tax admin-  
8           istering authority or the Secretary that such Depart-  
9           ment of Office will not—

10                   “(A) prosecute such person for any offense  
11                   connected with the internal revenue laws (or a  
12                   conforming State sales tax),

13                   “(B) authorize a grand jury investigation  
14                   of such person with respect to such offense, or

15                   “(C) continue such a grand jury investiga-  
16                   tion, or

17           “(2) a final disposition has been made of any  
18           criminal proceeding connected with the internal rev-  
19           enue laws, or conforming State sales tax, against  
20           such person.

21 **“SEC. 2509. RECORDS.**

22           “Any person liable to remit taxes pursuant to subtitle  
23 B or C shall keep records (including a record of all section  
24 2510 receipts provided, complete records of intermediate  
25 and export sales, including purchaser's intermediate and

1 export sales certificates and tax number and the net of  
2 tax amount of purchase) sufficient to determine the  
3 amounts reported, collected, and remitted for a period of  
4 5 years after the latter of the filing of the report for which  
5 the records formed the basis or the date the report was  
6 due to be filed. Any purchaser who purchased taxable  
7 property or services but did not pay tax by reason of as-  
8 serting an intermediate and export sales exemption shall  
9 keep records sufficient to determine whether such exemp-  
10 tion was valid for a period of 6 years after the purchase  
11 of the taxable property or services.

12 **“SEC. 2510. TAX TO BE SEPARATELY STATED AND**  
13 **CHARGED.**

14 “(a) IN GENERAL.—For each purchase of taxable  
15 property or services for which a tax is imposed pursuant  
16 to section 101 and 1101, the seller shall charge the tax  
17 imposed by section 101 separately from the purchase. For  
18 purchase of taxable property or services for which a tax  
19 is imposed pursuant to section 101, the seller shall provide  
20 to the purchaser a receipt for each transaction that in-  
21 cludes at least the following information—

22 “(1) the price of the property or services exclu-  
23 sive of tax,

1           “(2) the amount of tax paid (including both the  
2 tax imposed by section 101 and the tax imposed by  
3 section 1101),

4           “(3) the price of the property or service inclu-  
5 sive of tax,

6           “(4) the sales tax rate and the business tax  
7 rate,

8           “(5) the date that the good or service was sold,

9           “(6) the name of the vendor, and

10          “(7) the vendor registration number.

11          “(b) VENDING MACHINE EXCEPTION.—The require-  
12 ments of subsection (a) shall be inapplicable in the case  
13 of sales by vending machines. For purposes of this sub-  
14 section, the term ‘vending machines’ means machines—

15           “(1) that dispense taxable property in exchange  
16 for coins or currency, and

17           “(2) that sell no single item exceeding \$10 per  
18 unit in price.

19          “(c) FINANCIAL INTERMEDIATION SERVICES EXCEP-  
20 TION.—The requirements of subsection (a) shall be inap-  
21 plicable in the case of sales of financial intermediation  
22 service. With respect to financial intermediation services,  
23 receipts shall be issued when the tax is imposed.

1 **“SEC. 2511. COORDINATION WITH TITLE 11.**

2 “No addition to tax shall be made under section 2505  
3 with respect to a period during which a case is pending  
4 under title 11 of the United States Code—

5 “(1) if such tax was incurred by the estate and  
6 the failure occurred pursuant to an order of the  
7 court finding probable insufficiency of funds of the  
8 estate to pay administrative expenses, or

9 “(2) if—

10 “(A) such tax was incurred by the debtor  
11 before the earlier of the order for relief or (in  
12 the involuntary case) the appointment of a  
13 trustee, and

14 “(B) the petition was filed before the due  
15 date prescribed by law (including extensions)  
16 for filing a return of such tax, or the date for  
17 making the addition to tax occurs on or after  
18 the date the petition was filed.

19 **“SEC. 2512. APPLICABLE INTEREST RATE.**

20 “(a) IN GENERAL.—

21 “(1) In the case of a debt instrument, invest-  
22 ment, financing lease or account with a term of not  
23 over 3 years, the applicable interest rate is the Fed-  
24 eral short-term rate.

25 “(2) In the case of a debt instrument, invest-  
26 ment, financing lease or account with a term of over

1       3 years but not over 9 years, the applicable interest  
2       rate is the Federal mid-term rate.

3           “(3) In the case of a debt instrument, invest-  
4       ment, financing lease or account with a term of over  
5       9 years, the applicable interest rate is the Federal  
6       long-term rate.

7       “(b) FEDERAL SHORT-TERM RATE.—The Federal  
8       short-term rate shall be the rate determined by the Sec-  
9       retary based on the average market yield (selected by the  
10      Secretary and ending in the calendar month in which the  
11      determination is made during any 1 month) on out-  
12      standing marketable obligations of the United States with  
13      remaining periods to maturity of 3 years or fewer.

14      “(c) FEDERAL MID-TERM RATE.—The Federal mid-  
15      term rate shall be the rate determined by the Secretary  
16      based on the average market yield (selected by the Sec-  
17      retary and ending in the calendar month in which the de-  
18      termination is made during any 1 month) on outstanding  
19      marketable obligations of the United States with remain-  
20      ing periods to maturity of more than 3 years and not over  
21      9 years.

22      “(d) FEDERAL LONG-TERM RATE.—The Federal  
23      long-term rate shall be the rate determined by the Sec-  
24      retary based on the average market yield (selected by the  
25      Secretary and ending in the calendar month in which the

1 determination is made during any 1 month) on out-  
 2 standing marketable obligations of the United States with  
 3 remaining periods to maturity of over 9 years.

4 “(e) DETERMINATION OF RATES.—During each cal-  
 5 endar month, the Secretary shall determine the Federal  
 6 short-term rate, the Federal mid-term rate and the Fed-  
 7 eral long-term rate which shall apply during the following  
 8 calendar month.

9 **“CHAPTER 2—COLLECTIONS; APPEALS;**  
 10 **TAXPAYER RIGHTS**

“Sec. 2601. Collections.

“Sec. 2602. Power to levy, etc.

“Sec. 2603. Problem resolution offices.

“Sec. 2604. Appeals.

“Sec. 2605. Taxpayer rights.

“Sec. 2606. Installment agreements; compromises.

11 **“SEC. 2601. COLLECTIONS.**

12 “The sales tax administering authority (as defined by  
 13 section 2) shall collect the taxes imposed by subtitle B and  
 14 the Secretary shall collect the taxes imposed by subtitle  
 15 C.

16 **“SEC. 2602. POWER TO LEVY, ETC.**

17 “(a) IN GENERAL.—The sales tax administering au-  
 18 thority and the Secretary may levy and seize property,  
 19 garnish wages or salary and file liens to collect amounts  
 20 due under this title, pursuant to enforcement of—

21 “(1) a judgment duly rendered by a court of  
 22 law,

1           “(2) an amount due if the taxpayer has failed  
2 to exercise his appeals rights under section 2604, or

3           “(3) an amount due if the appeals process de-  
4 termined that an amount remained due and the tax-  
5 payer has failed to timely petition the Tax Court for  
6 relief.

7           “(b) EXEMPTION FROM LEVY, SEIZURE AND GAR-  
8 NISHMENT.—There shall be exempt from levy, seizure and  
9 garnishment or penalty in connection with any tax im-  
10 posed by this title—

11           “(1) wearing apparel, school books, fuel, provi-  
12 sions, furniture, personal effects, tools of a trade or  
13 profession, and livestock in a household up to an ag-  
14 gregate value of \$15,000, and

15           “(2) monthly money income equal to 150 per-  
16 cent of the monthly poverty level (as defined in sec-  
17 tion 303).

18           “(c) LIENS TO BE TIMELY RELEASED.—Subject to  
19 such reasonable regulations as the Secretary may provide,  
20 any lien imposed with respect to a tax imposed by this  
21 title shall be released not later than 30 days after—

22           “(1) the liability was satisfied or became unen-  
23 forceable, or

24           “(2) a bond was accepted as security.

1 **“SEC. 2603. PROBLEM RESOLUTION OFFICES.**

2       “(a) PROBLEM RESOLUTION OFFICE TO BE ESTAB-  
3 LISHED.—Each sales tax administering authority and the  
4 Secretary shall establish an independent Problem Resolu-  
5 tion Office and appoint an adequate number of Problem  
6 Resolution Officers. The head of the Problem Resolution  
7 Office must be appointed by, and serve at the pleasure  
8 of, either the governor of the administering State or the  
9 President of the United States.

10       “(b) AUTHORITY OF PROBLEM RESOLUTION OFFI-  
11 CERS.—Problem Resolution Officers shall have the au-  
12 thority to investigate complaints and issue Taxpayer As-  
13 sistance Orders to administratively enjoin any collection  
14 activity (by the sales tax administering authority if ap-  
15 pointed by the governor and by the Secretary if appointed  
16 by the President) if, in the opinion of the Problem Resolu-  
17 tion Officer, such collection activity is reasonably likely to  
18 not be in compliance with law or to prevent hardship  
19 (other than by reason of having to pay taxes lawfully due).  
20 Problem Resolution Officers shall also have the authority  
21 to issue Taxpayer Assistance Orders releasing or return-  
22 ing property that has been levied upon or seized and order-  
23 ing that a lien be released or that garnished wages be re-  
24 turned. Such Taxpayer Assistance Order may only be re-  
25 scinded or modified by the Problem Resolution Officer  
26 that issued it, by either the highest official in the relevant

1 sales tax administering authority or by its General Coun-  
2 sel (or by the Secretary or his designated counsel) upon  
3 a finding that the collection activity is justified by clear  
4 and convincing evidence. The authority to reverse this tax-  
5 payer assistance order may not be delegated.

6       “(c) FORM OF REQUEST FOR TAXPAYER ASSISTANCE  
7 ORDER.—The Secretary shall establish a form and proce-  
8 dure to aid persons requesting the assistance of the Prob-  
9 lem Resolution Office and to aid the Problem Resolution  
10 Office in understanding the needs of the person seeking  
11 assistance. The use of this form, however, shall not be a  
12 prerequisite to a Problem Resolution Officer taking action,  
13 including issuing a Taxpayer Assistance Order.

14       “(d) CONTENT OF TAXPAYER ASSISTANCE ORDER.—  
15 A Taxpayer Assistance Order shall contain the name of  
16 the Problem Resolution Officer, any provision relating to  
17 the running of any applicable period of limitation, the  
18 name of the person that the Taxpayer Assistance Order  
19 assists, the Government office (or employee or officer of  
20 such Government office) to whom it is directed and the  
21 action or cessation of action that the Taxpayer Assistance  
22 Order requires of such Government office (or employee or  
23 officer of such Government office). The Taxpayer Assist-  
24 ance Order need not contain findings of fact or its legal  
25 basis; however, the Problem Resolution Officer must pro-

1 vide findings of fact and the legal basis for the issuance  
2 of the Taxpayer Assistance Order to the sales tax admin-  
3 istering authority upon the request of an officer of such  
4 authority within 2 weeks of the receipt of such request.

5 “(e) INDEPENDENCE PROTECTED.—Problem Resolu-  
6 tion Officers shall not be disciplined or adversely affected  
7 for the issuance of administrative injunctions unless a pat-  
8 tern of issuing injunctions that are unreasonable is proven  
9 in an administrative hearing by a preponderance of the  
10 evidence.

11 “(f) OTHER RIGHTS NOT LIMITED.—Nothing in this  
12 section shall limit the authority of the sales tax admin-  
13 istering authority, the Secretary, the registered person or  
14 other person from pursuing any legal remedy in any court  
15 of competent jurisdiction.

16 “(g) LIMITATIONS.—The running of any applicable  
17 period of limitation shall be suspended for a period of 8  
18 weeks following the issuance of a Taxpayer Assistance  
19 Order or, if specified, for a longer period set forth in the  
20 Taxpayer Assistance Order, provided, however, that such  
21 suspension may not exceed 6 months.

22 **“SEC. 2604. APPEALS.**

23 “(a) ADMINISTRATIVE APPEALS.—The sales tax ad-  
24 ministering authority and the Secretary shall establish an  
25 administrative appeals process wherein a registered per-

1 son, business entity or other person in disagreement with  
 2 a decision of the sales tax administering authority or the  
 3 Secretary asserting liability for tax is provided a full and  
 4 fair hearing in connection with any disputes such person  
 5 has with the sales tax administering authority or the Sec-  
 6 retary.

7 “(b) TIMING OF ADMINISTRATIVE APPEALS.—Such  
 8 administrative appeal must be made within 60 days of re-  
 9 ceiving a final notice of amount due pursuant to section  
 10 2605(d) unless leave for an extension is granted by the  
 11 appeals officer in a form prescribed by the Secretary.  
 12 Leave shall be granted to avoid hardship.

13 **“SEC. 2605. TAXPAYER RIGHTS.**

14 “(a) RIGHTS TO BE DISCLOSED.—The sales tax ad-  
 15 ministering authority or the Secretary shall provide to any  
 16 person against whom it has—

17 “(1) commenced an audit or investigation,

18 “(2) issued a final notice of amount due,

19 “(3) filed an administrative lien, levy or gar-  
 20 nishment,

21 “(4) commenced other collection action,

22 “(5) commenced an action for civil penalties, or

23 “(6) any other legal action,

24 a document setting forth in plain English the rights of  
 25 such person. The document shall explain the administra-

1 tive appeals process, the authority of the Problem Resolu-  
2 tion Office (established pursuant to section 2603) and how  
3 to contact that office, the burden of production and per-  
4 suasion that the person and the sales tax administering  
5 authority (or the Secretary as the case may be) bear (pur-  
6 suant to section 2506), the right of the person to profes-  
7 sional fees (pursuant to section 2507), the right to record  
8 interviews and such other rights as the person may posses  
9 under this title. Such document will also set forth the pro-  
10 cedures for entering into an installment agreement.

11       “(b) RIGHT TO PROFESSIONAL ASSISTANCE.—In all  
12 dealings with the sales tax administering authority (or the  
13 Secretary as the case may be), a person shall have the  
14 right to assistance, at the person’s own expense, of 1 or  
15 more professional advisors.

16       “(c) RIGHT TO RECORD INTERVIEWS.—Any person  
17 who is interviewed by an agent of the sales tax admin-  
18 istering authority (or the Secretary as the case may be)  
19 shall have the right to video or audio tape the interview  
20 at the person’s own expense.

21       “(d) RIGHT TO FINAL NOTICE OF AMOUNT DUE.—  
22 No collection or enforcement action will be commenced  
23 against a person until 30 days after they have been pro-  
24 vided with a final notice of amount due under subtitle B  
25 or C by the sales tax administering authority (or the Sec-

1 retary as the case may be). Such final notice of amount  
2 due shall set forth the amount of tax due (along with any  
3 interest and penalties due) and the factual and legal basis  
4 for such amounts being due with sufficient specificity that  
5 such basis can be understood by a reasonable person who  
6 is not a tax professional. Such final notice shall be sent  
7 by certified mail, return receipt requested, to—

8           “(1) the address last provided by a registered  
9           seller, business entity or other person, or

10           “(2) in the case where an address was not pro-  
11           vided, the best available address with respect to such  
12           person.

13           “(f) CONFIDENTIALITY OF TAX INFORMATION.—

14           “(1) IN GENERAL.—All reports and report in-  
15           formation (related to any internal revenue law) shall  
16           be confidential and except as authorized by this  
17           title—

18                   “(A) no officer or employee (including  
19                   former officers and employees) of the United  
20                   States,

21                   “(B) no officer or employee (including  
22                   former officers and employees) of any State or  
23                   local agency who has had access to returns or  
24                   return information, and

1           “(C) no other person who has had access  
2           to returns or return information,  
3           shall disclose any report or report information ob-  
4           tained by him in any manner in connection with his  
5           service as such officer or employee or otherwise.

6           “(2) DESIGNNEES.—The sales tax administering  
7           authority may, subject to such requirements as the  
8           Secretary may impose, disclose the report and report  
9           information of a person to that person or persons as  
10          that person may designate to receive such informa-  
11          tion or return.

12          “(3) OTHER SALES TAX ADMINISTERING AU-  
13          THORITIES.—A sales tax administering authority  
14          may, subject to such requirements as the Secretary  
15          may impose, disclose report and report information  
16          to another sales tax administering authority or the  
17          Secretary.

18          “(4) INCOMPETENCY.—A sales tax admin-  
19          istering authority or the Secretary may, subject to  
20          such requirements as the Secretary may impose, dis-  
21          close report and report information to the com-  
22          mittee, trustee or guardian of a person who is in-  
23          competent.

24          “(5) DECEASED PERSONS.—A sales tax admin-  
25          istering authority or the Secretary may, subject to

1 such requirements as the Secretary may impose, dis-  
2 close report and report information to the decedent's

3 “(A) administrator, executor, estate trust-  
4 ee, or

5 “(B) heir at law, next of kin or beneficiary  
6 under a will who has a material interest that  
7 will be affected by the report and report infor-  
8 mation.

9 “(6) BANKRUPTCY.—A sales tax administering  
10 authority or the Secretary may, subject to such re-  
11 quirements as the Secretary may impose, disclose re-  
12 port and report information to a person's trustee in  
13 bankruptcy.

14 “(7) CONGRESS.—Upon written request from  
15 the Chairman of the Committee on Ways and  
16 Means, the Chairman of the Committee on Finance  
17 of the Senate, or the Chairman or Chief of Staff of  
18 the Joint Committee on Taxation, a sales tax admin-  
19 istering authority or the Secretary shall disclose re-  
20 port and report information provided, however, that  
21 any report or report information that can be associ-  
22 ated with or otherwise identify a particular person  
23 shall be furnished to such Committee only when sit-  
24 ting in closed executive session unless such person  
25 otherwise consents in writing to such disclosure.

1           “(8) WAIVER OF PRIVACY RIGHTS.—A person  
2           may waive confidentiality rights provided by this sec-  
3           tion. Such waiver must be in writing.

4           “(9) INTERNAL USE.—Disclosure of report or  
5           report information by officers or employees of a  
6           sales tax administering authority (or the Secretary,  
7           as the case may be) to other officers or employees  
8           of a sales tax administering authority (or the Sec-  
9           retary, as the case may be) in the ordinary course  
10          of tax administration activities shall not constitute  
11          unlawful disclosure of report or report information.

12          “(10) STATISTICAL USE.—Upon request in  
13          writing by the Secretary of Commerce, the Secretary  
14          shall furnish such reports and report information to  
15          officers and employees of the Department of Com-  
16          merce as the Secretary may prescribe by regulation  
17          for the purposes of, and only to the extent necessary  
18          in, the structuring of censuses and national eco-  
19          nomic accounts and conducting related statistical ac-  
20          tivities authorized by law.

21          “(11) DEPARTMENT OF THE TREASURY.—Re-  
22          turns and return information shall be open for in-  
23          spection by officers and employees of the Depart-  
24          ment of the Treasury whose official duties require  
25          such inspection or disclosure for the purpose of, and

1       only to the extent necessary for, preparing economic  
2       or financial forecasts, projections, analyses or esti-  
3       mates. Such inspection or disclosure shall be per-  
4       mitted only upon written request that sets forth the  
5       reasons why such inspection or disclosure is nec-  
6       essary and is signed by the head of the bureau or  
7       office of the Department of the Treasury requesting  
8       the inspection or disclosure.

9       **“SEC. 2606. INSTALLMENT AGREEMENTS; COMPROMISES.**

10       “The sales tax administering authority (or the Sec-  
11       retary, as the case may be) is authorized to enter into  
12       written agreements with any person under which the per-  
13       son is allowed to satisfy liability for payment of any tax  
14       under this subtitle (and penalties and interest relating  
15       thereto) in installments payments if the sales tax admin-  
16       istering authority (or the Secretary, as the case may be)  
17       determines that such agreement will facilitate the collec-  
18       tion of such liability. The agreement shall remain in effect  
19       for the term of the agreement unless the information that  
20       the person provided to the sales tax administering author-  
21       ity or the Secretary was materially inaccurate or incom-  
22       plete. The sales tax administering authority (or the Sec-  
23       retary, as the case may be) may compromise any amounts  
24       alleged to be due.



1 when economic performance with respect to such item oc-  
2 curs.

3 “(c) CHANGE IN ACCOUNTING METHODS.—Except as  
4 otherwise expressly provided in this chapter, a business  
5 entity shall secure the consent of the Secretary before  
6 changing the method of accounting by which it determines  
7 gross profits. This provision shall not apply to changes  
8 required by the adoption of the business tax.

9 **“SEC. 2702. USE OF THE CASH METHOD OF ACCOUNTING.**

10 “(a) IN GENERAL.—A business entity that was per-  
11 mitted to use and used the cash receipts and disburse-  
12 ments method of accounting under the Internal Revenue  
13 Code of 1986 shall be permitted to continue to use the  
14 cash receipts and disbursements method of accounting. A  
15 business entity that has gross receipts of less than \$10  
16 million annually shall be permitted to use the cash receipts  
17 and disbursements method of accounting.

18 “(b) NEW BUSINESS ENTITIES.—A new business en-  
19 tity shall be permitted to use the cash receipts and dis-  
20 bursements method of accounting if permitted to under  
21 regulations prescribed by the Secretary.

22 “(c) CHANGE OR EXPANSION OF BUSINESS.—Sub-  
23 section (a) shall cease to apply to a business entity that  
24 changes or expands its business such that under regula-  
25 tions prescribed by the Secretary it is no longer eligible

1 to use the cash receipts and disbursements method of ac-  
2 counting.

3 “(d) REGULATIONS.—

4 “(1) USE OF CASH RECEIPTS AND DISBURSE-  
5 MENTS METHOD.—The Secretary shall prescribe reg-  
6 ulations defining which business entities may use the  
7 cash receipts and disbursements method of account-  
8 ing. In general, those regulations shall be consistent  
9 with the rules under sections 447 and 448 of the In-  
10 ternal Revenue Code of 1986, except that all cor-  
11 porations shall be treated as C corporations were  
12 treated under those sections.

13 “(2) CHANGE IN ACCOUNTING METHOD.—The  
14 Secretary shall prescribe regulations to prevent dou-  
15 ble counting of taxable receipts and deductible ex-  
16 penses in the case of a change in accounting method.

17 **“SEC. 2703. TAXABLE YEAR.**

18 “(a) COMPUTATION OF GROSS PROFITS.—Gross  
19 profits shall be computed on the basis of a business enti-  
20 ty’s taxable year.

21 “(b) TAXABLE YEAR.—The term ‘taxable year’  
22 means—

23 “(1) the taxpayer’s annual accounting period, if  
24 it is a calendar year or a fiscal year,

1           “(2) the calendar year, if subsection (g) applies,  
2           or

3           “(3) the period for which the return is made if  
4           the return is made for a period of less than 12  
5           months.

6           “(c) ANNUAL ACCOUNTING PERIOD.—The term ‘an-  
7           nual accounting period’ means the annual period on the  
8           basis of which the business entity regularly keeps its  
9           books.

10          “(d) CALENDAR YEAR.—The term ‘calendar year’  
11          means a period of 12 months ending on December 31.

12          “(e) FISCAL YEAR.—The term ‘fiscal year’ means a  
13          period of 12 months ending on the last day of any month  
14          other than December. In the case of any business entity  
15          that has made the election provided by subsection (f), the  
16          term means the annual period (varying from 52 to 53  
17          weeks) so elected.

18          “(f) ELECTION OF 52- to 53-WEEK YEAR.—

19                  “(1) GENERAL RULE.—A business entity which,  
20                  in keeping its books, regularly computes its income  
21                  or profits on a basis of an annual period which var-  
22                  ies from 52 to 53 weeks and ends always on the  
23                  same day of the week and ends always—

24                          “(A) on whatever date such same day of  
25                          the week last occurs in a calendar month, or

1           “(B) on whatever date such same day of  
2           the week falls which is nearest to the last day  
3           of a calendar month, may elect to compute its  
4           gross profits on the basis of such annual period.

5           “(2) REGULATIONS.—The Secretary shall pre-  
6           scribe such regulations as he deems necessary for  
7           the application of this subsection, including regula-  
8           tions relating to the application of effective dates to  
9           taxpayers using a 52- to 53-week year.

10          “(g) CALENDAR YEAR REQUIRED.—

11           “(1) NO ACCOUNTING PERIOD.—A business en-  
12           tity’s taxable year shall be the calendar year if the  
13           business entity does not have an annual accounting  
14           period or has an annual accounting period that does  
15           not qualify as a fiscal year.

16           “(2) NEW BUSINESS ENTITY.—The taxable  
17           year of a business entity that begins business activ-  
18           ity after December 31, 2006, shall be the calendar  
19           year (or a 52- to 53-week fiscal year ending in De-  
20           cember) unless the business entity can demonstrate  
21           a business reason for selecting an accounting period  
22           other than the calendar year.

23          “(h) TRANSITION RULE FOR BUSINESS ENTITIES  
24          WITH A FISCAL YEAR.—

1           “(1) IN GENERAL.—A business entity with a  
2 taxable year that is not the calendar year shall have  
3 a short taxable year ending on December 31, 2006,  
4 and a subsequent taxable year beginning on January  
5 1, 2007, and ending on the day immediately pre-  
6 ceding the beginning of the business entity’s next  
7 fiscal year.

8           “(2) BUSINESS ENTITIES WITH 52- TO 53-WEEK  
9 YEAR ENDING IN DECEMBER.—

10           “(A) IN GENERAL.—If a business entity  
11 has a 52- to 53-week taxable year (under the  
12 Internal Revenue Code of 1986) that ends in  
13 December 2006, it may elect to begin its first  
14 taxable year for the business tax on the first  
15 day immediately following the last day of such  
16 taxable year.

17           “(B) NO ELECTION.—If a business entity  
18 that has a 52- to 53-week taxable year that  
19 ends in December 2006, does not make the  
20 election under subparagraph (A) or is prohib-  
21 ited from making such election by subpara-  
22 graph (C), the business entity’s taxable year  
23 under the Internal Revenue Code of 1986 that  
24 would end in December 2006 shall end on De-  
25 cember 31, 2006.

1           “(C) ANTI-ABUSE RULE.—Subparagraph  
2           (A) shall not apply to any taxpayer that enters  
3           into business transactions in 2006 following the  
4           scheduled end of its fiscal year with business  
5           entities that are not subject to the business tax  
6           at the time of such transactions if such trans-  
7           actions deviate from the normal course of busi-  
8           ness in order to achieve some tax benefit.

9   **“SEC. 2704. LONG-TERM CONTRACTS.**

10          “(a) IN GENERAL.—In the case of a long-term con-  
11         tract—

12                 “(1) CONTRACTOR EXPENSES.—The contractor  
13                 shall be entitled to deduct its business purchases  
14                 when paid or incurred.

15                 “(2) CONTRACTOR RECEIPTS.—The contractor  
16                 shall recognize taxable receipts—

17                         “(A) in the case of a project in which the  
18                         acquirer has no ownership interest in the  
19                         project until delivery—

20                                 “(i) upon delivery of the project, in  
21                                 the case of an accrual basis contractor, or

22   “(ii) upon the later of delivery of the  
23   project or the receipt of payment, in the  
24   case of a cash-basis contractor, and

1           “(B) in the case of a project in which the  
2           acquirer obtains an ownership interest as the  
3           project is constructed—

4                   “(i) when the contractor has the right  
5                   to payments, in the case of an accrual  
6                   basis contractor, or

7                   “(ii) upon the later of when the con-  
8                   tractor receives the cash or has the right  
9                   to payments, in the case of a cash basis  
10                  contractor.

11           “(3) ACQUIRER EXPENSES.—The acquirer that  
12           is a business entity shall be entitled to deduct its  
13           costs of the business purchase—

14                   “(A) in the case of a cash-basis acquirer,  
15                   at such time as a cash basis contractor would  
16                   be required to treat the amounts paid as tax-  
17                   able receipts, or

18                   “(B) in the case of an accrual-basis  
19                   acquirer, at such time as an accrual basis con-  
20                   tractor would be required to treat the amounts  
21                   paid or due as taxable receipts.

22           “(b) RIGHT TO PAYMENTS.—

23                   “(1) IN GENERAL.—A contractor shall be treat-  
24                   ed as having a right to payments with respect to a  
25                   project at any time to the extent that the contractor

1 would not be required to return payments received  
2 (or would be entitled to collect payments not yet re-  
3 ceived) if the project were terminated at such time  
4 by the contractor.

5 “(2) CONTRACTUAL PROVISIONS.—If a long-  
6 term contract includes a procedure for paying the  
7 contractor as work is completed (for example, by  
8 reason of a draw down from a trust account), the  
9 contractual provisions shall generally govern when a  
10 contractor has a right to payment.

11 “(3) PERCENTAGE COMPLETION METHOD OF  
12 ACCOUNTING.—If a long-term contract does not in-  
13 clude a mechanism for paying the contractor as  
14 work is completed, the percentage-of-completion  
15 method of accounting shall be used to determine the  
16 timing of taxable receipts of the contractor and busi-  
17 ness purchases of the acquirer.

18 “(c) LONG-TERM CONTRACT.—

19 “(1) IN GENERAL.—The term ‘long-term con-  
20 tract’ means—

21 “(A) any contract that covers service or  
22 production through parts of 2 different calendar  
23 years if the contract includes a formal deposit  
24 and draw-down mechanism, and

1           “(B) any contract for the manufacture,  
2           building, installation, or construction of prop-  
3           erty if such contract is not completed within the  
4           taxable year of the contractor in which such  
5           contract is entered into.

6           “(2) EXCEPTION.—A contract for the manufac-  
7           ture of property shall not be treated as a long-term  
8           contract unless such contract involves the manufac-  
9           ture of—

10           “(A) any unique item of a type which is  
11           not normally included in the finished goods in-  
12           ventory of the taxpayer, or

13           “(B) any item which normally requires  
14           more than 12 calendar months to complete.

15           “(d) CONSISTENCY.—The Secretary may require  
16           business entities to file statements containing such infor-  
17           mation with respect to long-term contracts as the Sec-  
18           retary may prescribe to ensure consistency in reporting.

19           “(e) FOREIGN CONTRACTS.—This section shall not  
20           be construed to permit a deduction for a business purchase  
21           for the cost of property produced outside the United  
22           States pursuant to a long-term contract at any time prior  
23           to the import of such property into the United States.

1 **“SEC. 2705. POST-SALE PRICE ADJUSTMENTS AND RE-**  
2 **FUNDS.**

3       “(a) RECEIPT OF PRICE ADJUSTMENT.—In the case  
4 of a post-sale price adjustment attributable to a business  
5 purchase which was taken into account in computing gross  
6 profits for a prior taxable year, the amount of such adjust-  
7 ment shall be treated as a reduction or increase, as the  
8 case may be, in the cost of business purchases for the tax-  
9 able year in which the adjustment is made or incurred.

10       “(b) ISSUANCE OF PRICE ADJUSTMENT.—In the case  
11 of a post-sale price adjustment attributable to a sale the  
12 receipts from which were taken into account in deter-  
13 mining taxable receipts for a prior taxable year, the  
14 amount of such adjustment shall be treated as a reduction  
15 or increase, as the case may be, in taxable receipts for  
16 the taxable year in which the adjustment is made or in-  
17 curred.

18       “(c) POST-SALE PRICE ADJUSTMENT.—The term  
19 ‘post-sale price adjustment’ means a refund, rebate, or  
20 other price allowance attributable to a sale of property or  
21 services or an upward adjustment in price that was not  
22 previously taken into account under the business entity’s  
23 method of accounting.

24 **“SEC. 2706. BAD DEBTS.**

25       “(a) SELLER.—If an amount owed to an accrual  
26 basis business entity for property or services sold—

1           “(1) was taken into account as a taxable receipt  
2           in a prior taxable year, and

3           “(2) becomes wholly or partially uncollectible  
4           during the taxable year,

5 then the seller shall treat the amount as a reduction in  
6 taxable receipts for the taxable year in which it becomes  
7 wholly or partially uncollectible.

8           “(b) NOTICE REQUIREMENT.—No reduction shall be  
9 allowed under subsection (a) unless the seller notifies the  
10 purchaser of the amount which the seller has treated as  
11 wholly or partially uncollectible.

12          “(c) SUBSEQUENT COLLECTION.—If an amount  
13 which was treated as uncollectible under subsection (a) is  
14 subsequently collected, it shall be treated as a taxable re-  
15 ceipt when collected.

16          “(d) PURCHASER.—If a purchaser receives notice  
17 under subsection (b) from a seller and the purchaser has  
18 treated the amount labeled uncollectible as a business pur-  
19 chase in a prior taxable year, then the purchaser shall  
20 treat such amount as a reduction in the cost of business  
21 purchases in the taxable year to which the notice relates.  
22 If the purchaser subsequently repays such amount, the re-  
23 payment shall constitute the cost of a business purchase.

1 **“SEC. 2707. CONSOLIDATED RETURNS.**

2       “(a) IN GENERAL.—Business entities may file con-  
3 solidated returns of business tax if such entities would  
4 have been permitted to file consolidated returns under sec-  
5 tion 1501 of the Internal Revenue Code of 1986 and such  
6 section was applied by treating each business entity as a  
7 corporation and its owners or partners as shareholders.

8       “(b) FINANCIAL INSTITUTIONS.—Financial inter-  
9 mediation businesses may be included in consolidated re-  
10 turns, but each financial intermediation business must  
11 compute its gross profits separately.

12       “(c) INTERCOMPANY TRANSACTIONS.—In computing  
13 the gross profits of a consolidated group, intercompany  
14 transactions can be taken into account, or at the election  
15 of the filer, be disregarded (except in the case of trans-  
16 actions with financial intermediation businesses).

17 **“SEC. 2708. TRANSITION RULES.**

18       “(a) NO DOUBLE DEDUCTIONS.—A business entity  
19 shall not be entitled to treat as a ‘cost of business pur-  
20 chase’ any amount that the business entity deducted in  
21 computing taxable income under the income tax in effect  
22 prior to the effective date of the business tax.

23       “(b) NO DOUBLE INCLUSION.—A business entity  
24 shall not be required to include in taxable receipts any  
25 receipt that the business entity took into account in com-

1 putting taxable income under the income tax in effect prior  
2 to the effect date of the business tax.

3 “(c) NO LOSS OF DEDUCTION.—An expense which—

4 “(1) a business entity would have been able to  
5 deduct as a cost of a business purchase in an ac-  
6 counting period before the effective date of the busi-  
7 ness tax if the business tax had been in effect in  
8 such period, and

9 “(2) the business entity would have been able to  
10 deduct as an expense in computing taxable income  
11 in a period after the business tax is effective if the  
12 income tax had continued in effect,

13 shall be treated as a cost of a business purchase incurred  
14 or paid at the time that it would have been paid or in-  
15 curred under the income tax if the income tax had contin-  
16 ued in effect. This subsection shall not apply to any  
17 amount which is to be taken into account under chapter  
18 4 (relating to amortization of transition basis, and inven-  
19 tory costs), any amounts which would have been deducted  
20 under the income tax through loss carryover deductions,  
21 or any deductions deferred by the uniform capitalization  
22 rules under section 263A of the Internal Revenue Code  
23 of 1986.

24 “(d) ALL TAXABLE RECEIPTS TAXED.—A receipt  
25 which—

1           “(1) a business entity would have been required  
2           to treat as a taxable receipt in an accounting period  
3           before the effective date of the business tax if the  
4           business tax had been in effect in such period, and

5           “(2) the business entity would have been re-  
6           quired to include in gross income in a period after  
7           the business tax is effective if the income tax had  
8           continued in effect,

9 shall be treated as a taxable receipt at the time that it  
10 would have been included in income if the income tax had  
11 continued in effect.

## 12           **“CHAPTER 4—TRANSITION RULES**

          “Sec. 2801. Amortization of transition basis.

          “Sec. 2802. Sales of transition basis property.

          “Sec. 2803. Carryovers.

          “Sec. 2804. Transition inventory credit.

## 13           **“CHAPTER 4—TRANSITION RULES**

### 14           **“SEC. 2801. AMORTIZATION OF TRANSITION BASIS.**

15           “(a) **TRANSITION BASIS DEDUCTION.**—The ‘transi-  
16           tion basis deduction’ for a taxable year is the sum of the  
17           amortization allowance determined under this section for  
18           the taxable year using either—

19           “(1) the 1986 Internal Revenue Code Method,

20           or

21           “(2) the simplified method.

22           “(b) **AMORTIZATION RULES.**—For purposes of the  
23           simplified method, the amortization allowance for each

1 category of amortizable basis shall be determined by amor-  
 2 tizing the amortizable basis of such category ratably over  
 3 the amortization period determined in subsection (c) for  
 4 the category beginning January 1, 2007.

5 “(c) AMORTIZATION PERIOD.—The amortization pe-  
 6 riods shall be determined in accordance with the following  
 7 table:

<b>“In the case of:</b>	<b>The amortization period is:</b>
Category I basis .....	8 years.
Category II basis .....	20 years.
Category III basis .....	30 years.
Unrecovered inventory costs .....	2 years.

8 “(d) CATEGORIES.—

9 “(1) CATEGORY I BASIS.—The term ‘Category  
 10 I basis’ is the sum of the unrecovered bases as of  
 11 January 1, 2007, of all depreciable property placed  
 12 in service prior to January 1, 2007, and the  
 13 unamortized portion of amortizable costs incurred  
 14 before January 1, 2007, if—

15 “(A) cost recovery or amortization began  
 16 before January 1, 2007, and

17 “(B) the remaining recovery period or am-  
 18 ortization period as of January 1, 2007, is less  
 19 than 15 years.

20 “(2) CATEGORY II BASIS.—The term ‘Category  
 21 II basis’ is the sum of the unrecovered bases as of  
 22 January 1, 2007, of all depreciable property placed  
 23 in service prior to January 1, 2007, and the

1 unamortized portion of amortizable costs incurred  
2 before January 1, 2007, if—

3 “(A) cost recovery or amortization began  
4 before January 1, 2007, and

5 “(B) the remaining recovery period or am-  
6 ortization period as of January 1, 2007, is 15  
7 years or more.

8 “(3) CATEGORY III BASIS.—The term ‘Category  
9 III basis’ is the sum of the adjusted basis of each  
10 asset satisfying the following requirements:

11 “(A) The asset was placed in service prior  
12 to January 1, 2007.

13 “(B) The asset was used in a business ac-  
14 tivity in 2007.

15 “(C) The cost of the asset was capitalized  
16 and not depreciable or otherwise recoverable  
17 under the Internal Revenue Code of 1986.

18 “(D) The cost of the asset would have con-  
19 stituted deductible expenses under the business  
20 tax if such cost had been incurred after 2006.

21 “(4) UNRECOVERED INVENTORY COSTS.—The  
22 term ‘unrecovered inventory costs’ means the cost of  
23 goods sold (as determined under the Internal Rev-  
24 enue Code of 1986) determined as if a business enti-

1 ty sold all of its inventory (including inventory being  
2 produced) on the effective date of the business tax.

3 “(e) RULES OF APPLICATION.—

4 “(1) REMAINING RECOVERY PERIOD.—

5 “(A) TIME OF MEASURE.—The remaining  
6 recovery period shall be determined as of De-  
7 cember 31, 2006, and shall include each taxable  
8 year ending after such date in which a deduc-  
9 tion would have been allowed under the Internal  
10 Revenue Code of 1986.

11 “(B) ACCOUNTING METHOD.—The remain-  
12 ing recovery period shall be determined using  
13 the cost recovery method and rules applicable  
14 for determining taxable income under the Inter-  
15 nal Revenue Code of 1986.

16 “(2) DEPLETABLE ASSETS.—Under rules pre-  
17 scribed by the Secretary, this section shall apply to  
18 the remaining cost basis of depletable property and  
19 to other property for which a cost recovery method  
20 other than one based on time is used.

21 “(f) 1986 INTERNAL REVENUE CODE METHOD.—

22 The ‘transition basis deduction’ for a taxable year using  
23 the ‘1986 Internal Revenue Code Method’ shall be deter-  
24 mined by determining the capital cost recovery, amortiza-  
25 tion and depletion deductions that would have been al-

1 lowed for property placed in service prior to the date of  
2 the enactment of this section as if the Internal Revenue  
3 Code of 1986 were still in place.

4 “(g) IRREVOCABLE ELECTION.—A taxpayer must  
5 make an irrevocable election with the first business tax  
6 return filed after the date of the enactment of this section  
7 (relating to the tax imposed by section 1101) to use either  
8 the simplified method or the 1986 Internal Revenue Code  
9 Method for determining the transition basis deduction.

10 **“SEC. 2802. SALES OF TRANSITION BASIS PROPERTY.**

11 “(a) IN GENERAL.—Except as provided in subsection  
12 (b), for purposes of determining the tax consequences of  
13 a sale, retirement, casualty or conversion to personal use  
14 of an asset whose basis or cost is taken into account under  
15 section 2801, the amount to be amortized shall be treated  
16 as fully deducted upon the adoption of the business tax.

17 “(b) SUBSTANTIAL SALES.—

18 “(1) IN GENERAL.—In the case of a substantial  
19 sale of assets to which the amortization rules of sec-  
20 tion 2801 apply, the purchaser and seller may joint-  
21 ly elect to have the purchaser assume the amortiza-  
22 tion deductions attributable to such assets, in which  
23 case—

24 “(A) the seller’s taxable receipts from such  
25 sale shall be reduced by the amount of

1 unamortized basis or cost assumed by the pur-  
2 chaser,

3 “(B) the purchaser may treat as a cost of  
4 a business purchase only the portion of the pur-  
5 chase price in excess of the amount of  
6 unamortized basis or cost assumed, and

7 “(C) the unamortized basis or cost as-  
8 sumed shall continue to be amortized in the  
9 manner amortized by the seller.

10 “(2) SUBSTANTIAL SALE.—A sale of assets by  
11 a business entity to another business entity is a sub-  
12 stantial sale if—

13 “(A) more than 20 percent (in fair market  
14 value or in original cost) of the assets of the  
15 seller are sold,

16 “(B) the total consideration for the sale  
17 exceeds \$1,000,000 or 20 percent of the taxable  
18 receipts of the seller for the taxable year pre-  
19 ceding the year of the sale, or

20 “(C) the sale satisfies other criteria estab-  
21 lished by the Secretary to prevent distortions in  
22 gross profits resulting from asset sales.

23 **“SEC. 2803. CARRYOVERS.**

24 “(a) NO LOSS CARRYOVERS.—No deduction shall be  
25 allowed under the business tax for net operating loss

1 carryovers, capital loss carryovers, or any other loss  
2 carryovers from the income tax under the Internal Rev-  
3 enue Code of 1986.

4 “(b) NO CREDIT CARRYOVERS.—No credits shall be  
5 allowed under the business tax for business credit  
6 carryovers, minimum tax credit carryovers, or any other  
7 credit carryovers from the income tax under the Internal  
8 Revenue Code of 1986.

9 **“SEC. 2804. TRANSITION INVENTORY CREDIT.**

10 “(a) INVENTORY.—

11 “(1) QUALIFIED INVENTORY.—Inventory held  
12 by a trade or business on the close of business De-  
13 cember 31, 2006 shall be qualified inventory if it is  
14 sold—

15 “(A) before December 31, 2008,

16 “(B) by a registered person, and

17 “(C) subject to the tax imposed by section  
18 101 (or incorporated into taxable property or  
19 services subject to the tax imposed by section  
20 101).

21 “(2) COST.—For purposes of this section, quali-  
22 fied inventory shall have the cost that it had for  
23 Federal income tax purposes for the trade or busi-  
24 ness as of December 31, 2006 (including any  
25 amounts capitalized by virtue of Internal Revenue

1 Code section 263A as in effect on December 31,  
2 2006).

3 “(3) TRANSITIONAL INVENTORY CREDIT.—The  
4 trade or business which held the qualified inventory  
5 on the close of business on December 31, 2006 shall  
6 be entitled to a transitional inventory credit equal to  
7 the cost of the qualified inventory (determined in ac-  
8 cordance with subparagraph (2)) times the rate of  
9 tax imposed by section 101. The business entitled to  
10 the transitional inventory credit may sell the right to  
11 receive such transitional inventory credit.

12 “(4) TIMING OF CREDIT.—The credit provided  
13 under subparagraph (3) shall be allowed with re-  
14 spect to the month when the inventory is sold sub-  
15 ject to the tax imposed by this subtitle. Such credit  
16 shall be reported as an intermediate and export sales  
17 credit and the person claiming such credit shall at-  
18 tach supporting schedules in the form that the Sec-  
19 retary may prescribe.

20 “(b) WORK-IN-PROCESS.—For purposes of this sec-  
21 tion, inventory shall include work-in-process.

22 “(c) QUALIFIED INVENTORY HELD BY BUSINESSES  
23 NOT SELLING SUCH QUALIFIED INVENTORY AT RE-  
24 TAIL.—



1 or trademark shall be treated as the sale of taxable prop-  
2 erty or services (within the meaning of section 102) if the  
3 substance of such sale of copyright or trademark con-  
4 stituted the sale of the services that produced the copy-  
5 righted material or the trademark.

6 “(b) DE MINIMIS PAYMENTS.—Up to \$400 of aggre-  
7 gate gross payments per calendar year shall be exempt  
8 from the tax imposed by section 101 if—

9 “(1) made by a person not in connection with  
10 a trade or business, and

11 “(2) made to purchase any taxable property or  
12 service which is imported into the United States by  
13 such person for use or consumption by such person  
14 (or their family within the meaning of section  
15 302(b)) in the United States.

16 “(c) DE MINIMIS SALES.—Up to \$1,200 per calendar  
17 year of gross payments received by a person shall be ex-  
18 empt from the tax imposed by section 101 if received by  
19 a person not in connection with a trade or business, and  
20 in connection with casual or isolated sales.

21 “(d) DE MINIMIS SALE OF FINANCIAL INTERMEDI-  
22 ATION SERVICES.—Up to \$10,000 per calendar year of  
23 gross payments received by a person from the sale of fi-  
24 nancial intermediation services (as determined in accord-  
25 ance with section 601) shall be exempt from the tax im-

1 posed by section 101. The exemption provided by this sub-  
 2 section is in addition to other exemptions afforded by this  
 3 chapter. The exemption provided by this subsection shall  
 4 not be available to large sellers (as defined in section  
 5 2501(e)(3)).

6       “(e) PROXY PURCHASE OR PROVISION TAXABLE.—  
 7 The purchase for, or provision to, a person by a registered  
 8 person of taxable property or services as a gift, prize, re-  
 9 ward, remuneration for employment or for a similar pur-  
 10 pose, such taxable property or services having not pre-  
 11 viously been subject to tax pursuant to section 101, shall  
 12 be deemed the conversion of such taxable property or serv-  
 13 ices to personal use subject to tax pursuant to section  
 14 103(e) at the fair market value of such taxable property  
 15 or services (as defined in section 2) and the registered per-  
 16 son shall remit the tax as if a taxable sale were made on  
 17 the date of conversion.

18       “(f) SUBSTANCE OVER FORM.—The substance of a  
 19 transaction will prevail over its form if the transaction has  
 20 no bona fide economic purpose and is designed to evade  
 21 tax imposed by subtitle B or C.

22       “(g) CERTAIN EMPLOYEE DISCOUNTS TAXABLE.—

23               “(1) EMPLOYEE DISCOUNT.—The term ‘em-  
 24 ployee discount’ means when an employer offers tax-  
 25 able property or services for sale to its employees or

1 their families (within the meaning of section 302(b))  
2 for less than such taxable property or services are  
3 offered to the general public.

4 “(2) EMPLOYEE DISCOUNT AMOUNT.—The em-  
5 ployee discount amount is the amount by which tax-  
6 able property or services are sold pursuant to an em-  
7 ployee discount (as defined in paragraph 1) below  
8 the amount for which such taxable property or serv-  
9 ices would have been sold to the general public.

10 “(3) TAXABLE AMOUNT.—If the employee dis-  
11 count amount exceeds 20 percent of the price that  
12 the taxable property or services would have been sold  
13 to the general public, then the sale of such taxable  
14 property or services by the employer shall be deemed  
15 the conversion of such taxable property or services  
16 to personal use and tax shall be imposed on the tax-  
17 able employee discount amount. The taxable em-  
18 ployee discount amount shall be—

19 “(A) the employee discount amount, less

20 “(B) 20 percent of the amount for which  
21 such taxable property or services would have  
22 been sold to the general public.

23 “(h) SATURDAY, SUNDAY, OR LEGAL HOLIDAY.—  
24 When the last day prescribed for performing any act re-  
25 quired by this title falls on a Saturday, Sunday or legal

1 holiday (in the jurisdiction where the return is to be filed),  
2 the performance of such act shall be considered timely if  
3 it is performed on the next day which is not a Saturday,  
4 Sunday or legal holiday (in the jurisdiction where the re-  
5 turn is to be filed).

6 **“SEC. 2902. WAGES TO BE REPORTED TO SOCIAL SECURITY**  
7 **ADMINISTRATION.**

8 “(a) IN GENERAL.—Employers shall submit such in-  
9 formation to the Social Security Administration as is re-  
10 quired by the Social Security Administration to calculate  
11 social security benefits under the Social Security Act, in-  
12 cluding wages paid, in a form prescribed by the Secretary.  
13 A copy of the employer submission to the Social Security  
14 Administration relating to each employee shall be provided  
15 to each employee by the employer.

16 “(b) WAGES.—For purposes of this section, the term  
17 ‘wages’ means all cash remuneration for employment (in-  
18 cluding tips to an employee by third parties provided that  
19 the employer or employee maintains records documenting  
20 such tips) including self-employment income (as defined  
21 in subsection (c)), except that such term shall not in-  
22 clude—

23 “(1) any insurance benefits received (including  
24 death benefits),

25 “(2) pension or annuity benefits received,

1           “(3) tips received by an employee over \$5,000  
2           per year, or

3           “(4) benefits received under a Government enti-  
4           tlement program (including social security benefits,  
5           and unemployment compensation benefits).

6           “(c) SELF-EMPLOYMENT INCOME.—For purposes of  
7           subsection (b), the term ‘self-employment income’ means  
8           gross payments received for taxable property or services  
9           less the sum of—

10           “(1) gross payments made for taxable property  
11           or services (without regard to whether tax was paid  
12           pursuant to section 101 on such taxable property or  
13           services), and

14           “(2) wages (as defined in subsection (b)) paid  
15           by the self-employed person to employees of the self-  
16           employed person.

17   **“SEC. 2903. TRUST FUND REVENUES.**

18           “(a) IN GENERAL.—The Secretary shall allocate the  
19           revenue received by virtue of the tax imposed by section  
20           101 in accordance with this section. The revenue shall be  
21           allocated first to—

22           “(1) the old-age and survivors insurance trust  
23           fund, until it has received the amount of money it  
24           would have received in absence of the rebate pro-  
25           vided by chapter 3 of subtitle B, then to

1           “(2) the disability insurance trust fund, until it  
2           has received the amount of money it would have re-  
3           ceived in absence of the rebate provided by chapter  
4           3 of subtitle B, then to

5           “(3) the hospital insurance trust fund, until it  
6           has received the amount of money it would have re-  
7           ceived in absence of the rebate provided by chapter  
8           3 of subtitle B, then to

9           “(4) the Federal supplementary medical insur-  
10          ance trust fund, until it has received the amount of  
11          money it would have received in absence of the re-  
12          bate provided by chapter 3 of subtitle B, then to the  
13          general revenue. If the amount received by a fund is  
14          not reduced by virtue of the rebate provided by  
15          chapter 3 of subtitle B then the amount received by  
16          such fund shall remain the same.

17          “(b) MAINTENANCE OF TRANSFERS TO PAYOR FUND  
18          AND HOSPITAL INSURANCE TRUST FUND.—There are  
19          hereby appropriated to the payor fund (as defined in sec-  
20          tion 121(e)(3)(A) of the Social Security Amendments of  
21          1983) and the Hospital Insurance Trust Fund established  
22          under section 1817 of the Social Security Act amounts  
23          equal to the reduction in revenues to the Treasury by rea-  
24          son of the repeal of sections 86 and 871(a)(3) of the Inter-  
25          nal Revenue Code of 1986 as in effect on the day before

1 the date of the enactment of this section. Amounts appro-  
 2 priated by the preceding sentence shall be transferred  
 3 from the general fund at such times and in such manner  
 4 as to replicate to the extent possible the transfers which  
 5 would have occurred to such payor fund and Trust Fund  
 6 had such repeal not been enacted.”.

## 7 **TITLE VI—OTHER MATTERS**

### 8 **SEC. 601. PHASE-OUT OF ADMINISTRATION REPEALED FED-** 9 **ERAL TAXES.**

10 (a) **APPROPRIATIONS.**—Appropriations for any ex-  
 11 penses of the Internal Revenue Service, including those  
 12 for processing income tax returns for years prior to the  
 13 repeal of the taxes repealed by title II of this Act, revenue  
 14 accounting, management, and transfer of payroll and wage  
 15 data to the Social Security Administration and otherwise,  
 16 for years after fiscal year 2010 are not authorized.

17 (b) **FEDERAL RECORDS.**—Federal records related to  
 18 the administration of taxes repealed by Title II of this Act  
 19 shall be destroyed by the end of fiscal year 2010 provided,  
 20 however, that any records necessary to calculate social se-  
 21 curity benefits shall be retained by the Social Security Ad-  
 22 ministration and further provided that any records nec-  
 23 essary to support ongoing litigation with respect to taxes  
 24 owed or refunds due shall be retained until final disposi-  
 25 tion of such litigation.

1 **SEC. 602. ADMINISTRATION OF OTHER FEDERAL TAXES.**

2 (a) TAX BUREAUS.—Section 7801 is amended by  
3 adding the following new subsections:

4 “(d) EXCISE TAX BUREAU.—There shall be in the  
5 Department of the Treasury an Excise Tax Bureau to ad-  
6 minister those excise taxes not administered by the Bu-  
7 reau of Alcohol, Tobacco, and Firearms.

8 “(e) SALES TAX BUREAU.—There shall be in the De-  
9 partment of the Treasury a Sales Tax Bureau to admin-  
10 ister the national sales tax in those States where it is re-  
11 quired pursuant to section 404, and to discharge other  
12 Federal duties and powers relating the national sales tax  
13 (including those required by sections 402, 403 and 405(i).  
14 The Office of Revenue Allocation shall be within the Sales  
15 Tax Bureau.”.

16 (b) ASSISTANT GENERAL COUNSELS.—Section  
17 7801(b)(2) is amended to read as follows:

18 “(2) ASSISTANT GENERAL COUNSELS.—The  
19 Secretary of the Treasury may appoint, without re-  
20 gard to the provisions of the civil service laws, and  
21 fix the duties of not more than 5 Assistant General  
22 Counsels.”.

1 **SEC. 603. SALES TAX INCLUSIVE SOCIAL SECURITY BENE-**  
2 **FITS INDEXATION.**

3 Subparagraph (D) of section 215(i)(1) of the Social  
4 Security Act (relating to cost-of-living increases in social  
5 security benefits) is amended to read as follows:

6 “(D)(i) IN GENERAL.—The term ‘CPI in-  
7 crease percentage’, with respect to a base quar-  
8 ter or cost-of-living quarter in any calendar  
9 year, means the percentage (rounded to the  
10 nearest one-tenth of 1 percent) by which the  
11 Consumer Price Index for that quarter (as pre-  
12 pared by the Department of Labor) exceeds  
13 such index for the most recent prior calendar  
14 quarter which was a base quarter under para-  
15 graph (A)(ii) or, if later, the most recent cost-  
16 of-living computation quarter under subpara-  
17 graph (B).

18 “(ii) RULE IF CPI NOT SALES TAX INCLU-  
19 SIVE.—If the Consumer Price Index (as pre-  
20 pared by the Department of Labor) does not in-  
21 clude the national sales tax paid, then the term  
22 ‘CPI increase percentage’ with respect to a base  
23 quarter or cost-of-living quarter in any calendar  
24 year, means the percentage (rounded to the  
25 nearest one-tenth of 1 percent) by which the  
26 product of—

1                   “(I) the Consumer Price Index for  
2                   that quarter (as prepared by the Depart-  
3                   ment of Labor), and

4                   “(II) the national sales tax factor,  
5                   exceeds such index for the most recent prior  
6                   calendar quarter which was a base quarter  
7                   under paragraph (A)(ii) or, if later, the most  
8                   recent cost-of-living computation quarter under  
9                   subparagraph (B).

10                   “(iii) NATIONAL SALES TAX FACTOR.—For  
11                   purposes of this subparagraph, the ‘national  
12                   sales tax factor’ is equal to 1 plus the quotient  
13                   that is—

14                   “(I) the sales tax rate imposed by sec-  
15                   tion 101 of the Internal Revenue Code of  
16                   2005, divided by

17                   “(II) the quantity that is 1 minus  
18                   such sales tax rate.”

19 **SEC. 604. CONFORMING AND TECHNICAL AMENDMENTS.**

20           (1) Subchapter A of chapter 61 of redesignated sub-  
21 title D (relating to information and returns) is hereby re-  
22 pealed.

23           (2) Sections 6103 through 6116 of subchapter B of  
24 chapter 61 of redesignated subtitle D is hereby repealed.

1       (3) Subsection (b) of section 6151 is hereby repealed  
2 and subsection (c) of section 6151 is redesignated as sub-  
3 section (b).

4       (4) Section 6157 (relating to unemployment taxes)  
5 is hereby repealed.

6       (5) Section 6161 is amended to read as follows:

7       **“SEC. 6161. EXTENSION OF TIME FOR PAYING TAX.**

8       “The Secretary, except as otherwise provided in this  
9 title, may extend the time for payment of the amount of  
10 the tax shown or required to be shown on any return, re-  
11 port or declaration required under authority of this title  
12 for a reasonable period not to exceed 6 months (12 months  
13 in the case of a taxpayer who is abroad).”.

14       (6) Section 6163 (relating to estate taxes) is hereby  
15 repealed.

16       (7) Section 6164 (relating to corporate taxes) is here-  
17 by repealed.

18       (8) Section 6166 (relating to estate taxes) is hereby  
19 repealed.

20       (9) Section 6167 (relating to foreign expropriation  
21 losses) is hereby repealed.

22       (10) Section 6201, 6205, and 6207 (relating to as-  
23 sessments) are hereby repealed.

24       (11) Section 6211(a) is amended by striking “income,  
25 estate, and gift taxes imposed by subtitles A and B and”.

1       (12) Section 6211(b) is amended by repealing para-  
2 graphs (1), (3), and (4) and by striking the paragraph  
3 designation “(2)” and “subtitle A or B or”.

4       (13) Section 6212 is amended by striking “Income  
5 and gift taxes and”.

6       (14) Sections 6212(b)(2) and 6212(b)(3) are hereby  
7 repealed.

8       (15) Subchapter C of chapter 63 of redesignated sub-  
9 title D (relating to tax treatment of partnership items)  
10 is hereby repealed.

11       (16) Section 6302(b) is amended by striking “21”.

12       (17) Section 6305 (relating to collections of certain  
13 liabilities) is hereby repealed.

14       (18) Sections 6314, 6315, 6316, and 6317 (relating  
15 to payments of repealed taxes) are hereby repealed.

16       (19) Sections 6324, 6324A, and 6324B (relating to  
17 liens for estate and gift taxes) are hereby repealed.

18       (20) Section 6325(c) (relating to estate and gift tax  
19 liens) is hereby repealed and subsections (d) through (h)  
20 of section 6325 are redesignated subsections (c) through  
21 (g), respectively.

22       (21) Section 6344 (relating to cross references) is  
23 hereby repealed.

24       (22) Section 6402(j) (relating to affiliated groups of  
25 corporations) is hereby repealed.

1       (23) Section 6411 (relating to carrybacks) is hereby  
2 repealed.

3       (24) Section 6414 (relating to withheld income taxes)  
4 is hereby repealed.

5       (25) Section 6422 (relating to cross references) is  
6 hereby repealed.

7       (26) Section 6425 (relating to overpayment of cor-  
8 porate estimated taxes) is hereby repealed.

9       (27) Section 6501 is amended—

10           (A) by striking “except tax imposed by chapter  
11 3, 21, or 24,” in subsection (b)(1),

12           (B) by striking paragraph (2) of subsection (b)  
13 and by redesignating paragraphs (3) and (4) of sub-  
14 section (b) as paragraphs (2) and (3), respectively.

15       (28) Section 6501(c)(5) through (c)(9) are hereby re-  
16 pealed.

17       (29) Sections 6501(e)(1) and (e)(2) (relating to in-  
18 come tax and estate taxes) are hereby repealed.

19       (30) Sections 6501(f) through 6501(k) and sections  
20 6501(m) and 6501(n) are hereby repealed and section  
21 6501(l) is redesignated as section 6501(f).

22       (31) Section 6503(a)(1) is amended by striking “(1)  
23 GENERAL RULE” and “income, estate, gift and”.

24       (32) Paragraph (2) of section 6503(a) is hereby re-  
25 pealed.



1 prescribed for payment, interest on such amount at the  
2 Federal short-term rate (as defined in section 2512(b))  
3 shall be paid from such last date to the date paid.

4 “(b) OVERPAYMENTS.—Interest shall be allowed and  
5 paid upon any overpayment in respect of any internal rev-  
6 enue tax at the Federal short-term rate (as defined in sec-  
7 tion 2512(b)) from 60 days after the date of the overpay-  
8 ment until the date the overpayment is refunded.”.

9 (39) Section 6651(a)(1) is amended by striking “sub-  
10 chapter A of chapter 61 (other than part III thereof),”.

11 (40) Section 6652 (relating to failure to file certain  
12 information returns) is hereby repealed.

13 (41) Sections 6654 and 6655 (relating to failure to  
14 payment estimated income tax) are hereby repealed.

15 (42) Section 6656(c) (relating to deposit of employ-  
16 ment taxes) is hereby repealed and subsection (d) of sec-  
17 tion 6656 is redesignated as subsection (c).

18 (43) Section 6662 (relating to penalties) is hereby re-  
19 pealed.

20 (44) Section 6663(c) (relating joint returns) is hereby  
21 repealed.

22 (45) Paragraphs (2) and (3) of section 6664(c) are  
23 hereby repealed and Section 6664(c)(1) is amended by  
24 striking “(1) IN GENERAL”.

1       (46) Sections 6677 through 6711 (relating to income  
2 tax related penalties) are hereby repealed.

3       (47) Part II of subchapter B of chapter 68 (relating  
4 to certain information returns) is hereby repealed.

5       (48) Part I of subchapter A of chapter 70 (relating  
6 to termination of taxable year) is hereby repealed.

7       (49) Section 6864 (relating to certain carrybacks) is  
8 hereby repealed.

9       (50) Subchapter A of chapter 72 (relating to licens-  
10 ing) is hereby repealed and chapter 72 is amended by  
11 striking “SUBCHAPTER B.—Registration”.

12       (51) Section 7103 (relating to cross references) is  
13 hereby repealed.

14       (52) Section 7211 (relating certain statements) is  
15 hereby repealed.

16       (53) Section 7231 (relating to failure to obtain cer-  
17 tain licenses) is hereby repealed.

18       (54) Section 7270 (relating to insurance policies) is  
19 hereby repealed.

20       (55) Section 7404 (relating to estate taxes) is hereby  
21 repealed.

22       (56) Section 7407 (relating to income tax preparers)  
23 is hereby repealed.

24       (57) Section 7408 (relating to income tax shelters)  
25 is hereby repealed.

1       (58) Section 7409 (relating to 501(c)(3) organiza-  
2 tions) is hereby repealed.

3       (59) Sections 7422(h) and 7422(i) are hereby re-  
4 pealed.

5       (60) Section 7427 (relating to income tax preparers)  
6 is hereby repealed.

7       (61) Section 7428 (relating to 501(c)(3) organiza-  
8 tions) is hereby repealed.

9       (62) Section 7451 is amended to read as follows:

10 **“SEC. 7451. FEE FOR FILING PETITION.**

11       “The Tax Court is authorized to impose a fee in an  
12 amount not in excess of \$60 to be fixed by the Tax Court  
13 for the filing of any petition for the redetermination of  
14 a deficiency.”.

15       (63) Subsection (b) of section 7454 (relating to foun-  
16 dation managers) is hereby repealed and subsection (c) is  
17 redesignated as subsection (b).

18       (64) Paragraph (2) (relating to estate taxes) and  
19 paragraph (3) (relating to gift taxes) of subsection  
20 7463(a) are hereby repealed.

21       (65) Paragraph (4) of subsection 7463(a) is redesis-  
22 gnated as paragraph (2) and such paragraph (4) is amend-  
23 ed by striking “D” and inserting “B”.

24       (66) Section 7463(c) is amended by striking “sec-  
25 tions 6214(a) and” and inserting “section”.

1           (67) Section 7463(e) is amended by striking “, to the  
2 extent that the procedures described in subchapter B of  
3 chapter 63 apply”.

4           (68) Section 7476 (relating to declaratory judgments  
5 relating to retirement plans) is hereby repealed.

6           (69) Section 7478 (relating to declaratory judgments  
7 relating to certain tax-exempt obligations) is hereby re-  
8 pealed.

9           (70) Section 7481(d) (relating to estate taxes) is  
10 hereby repealed.

11          (71) Section 7508 (relating to postponing time for  
12 certain actions required by the income, estate, and gift  
13 tax) is hereby repealed.

14          (72) Section 7517 (relating to estate and gift tax  
15 evaluation) is hereby repealed.

16          (73) Section 7518 (relating to Merchant Marine tax  
17 incentives) is hereby repealed.

18          (74) Section 7519 (relating to taxable years) is here-  
19 by repealed.

20          (75) Section 7520 (relating to insurance and annuity  
21 valuation tables) is hereby repealed.

22          (76) Section 7523 (relating to reporting Federal in-  
23 come and outlays on Form 1040s) is hereby repealed.

24          (77) Section 7608 is amended by striking “subtitle  
25 E” each place it appears and inserting “subtitle C”.

1       (78) Section 7611 (relating to church income tax ex-  
2       emptions and church unrelated business income tax in-  
3       quiries) is hereby repealed.

4       (79) Section 7654 (relating to possessions' income  
5       taxes) is hereby repealed.

6       (80) Section 7655 (relating to cross references) is  
7       hereby repealed.

8       (81) Section 7701(a)(16) is hereby repealed.

9       (82) Section 7701(a)(19) is hereby repealed.

10      (83) Section 7701(a)(20) is hereby repealed.

11      (84) Section 7701(a)(29) is amended by striking  
12      “1986” and inserting “1998”.

13      (85) Paragraphs (32) through (38) of subsection  
14      7701(a) are hereby repealed.

15      (86) Paragraphs (41) through (46) of subsection  
16      7701(a) are hereby repealed.

17      (87) Section 7701(b) is hereby repealed.

18      (88) Sections 7701(e) through 7701(m) are hereby  
19      repealed.

20      (89) Section 7702 (relating to life insurance con-  
21      tracts) is hereby repealed.

22      (90) Section 7702A (relating to modified endowment  
23      contracts) is hereby repealed.

24      (91) Section 7702B (relating to long-term care insur-  
25      ance) is hereby repealed.

1       (92) Section 7703 (relating to the determination of  
2 marital status) is hereby repealed.

3       (93) Section 7704 (relating to publicly traded part-  
4 nerships) is hereby repealed.

5       (94) Section 7804 is hereby repealed.

6       (95) Section 7805 is hereby repealed.

7       (96) Section 7809(c)(1) and 7809(c)(4) are hereby  
8 repealed and paragraphs (2) and (3) of section 7809(c)  
9 are redesignated as paragraphs (1) and (2), respectively.

10       (97) Section 7851 is hereby repealed.

11       (98) Sections 7871(a)(1) and 7871(a)(3) through  
12 7871(a)(6) are hereby repealed.

13       (99) Section 7871(c) is hereby repealed.

14       (100) Section 7872 is hereby repealed.

15       (101) Section 7873 is hereby repealed.

16       (102) Section 8021(a) is hereby repealed and sub-  
17 sections (b) through (d) are redesignated as subsection (a)  
18 through (c), respectively.

19       (103) Section 8022(2)(A) is amended by striking “,  
20 particularly the income tax”.

21       (104) Section 8023 is amended by striking “Internal  
22 Revenue Service” each place it appears and inserting  
23 “Treasury Department”.

24       (105) Section 9501(b)(2) is amended by striking “de-  
25 scribed in section 501(c)(21)”.

1 (106) Section 9702(a)(4) is hereby repealed.

2 (107) Section 9705(a)(4) is hereby repealed.

3 (108) Section 9706(d)(2) is amended by striking “,  
4 including section 6103”.

5 (109) Section 9706(g) is amended by striking “6103”  
6 and inserting “605(f)”.

7 (110) Section 9707(f) is hereby repealed.

8 (111) Section 9712(d)(5) is hereby repealed.

9 (112) Section 9803(a) is amended by striking “(as  
10 defined in section 414(f))”.

11 (113) Section 1441 is amended to read as follows:

12 **“SEC. 1441. WITHHOLDING OF TAX ON NONRESIDENT**  
13 **ALIENS AND FOREIGN CORPORATIONS.**

14 “(a) IN GENERAL.—All persons, in whatever capacity  
15 acting (including lessees or mortgagors or real or personal  
16 property, fiduciaries, employers, and all officers and em-  
17 ployees of the United States), having control, receipt, cus-  
18 tody, disposal, or payment of any income to the extent  
19 such income constitute gross income from sources within  
20 the United States of any nonresident alien individual, for-  
21 eign partnership, or foreign corporation shall deduct and  
22 withhold from that income a tax equal to 16.4 percent  
23 thereof.

24 “(b) EXCEPTION.—No tax shall be required to be de-  
25 ducted from interest on portfolio debt investments.

1       “(c) TREATY COUNTRIES.—In the case of payments  
2 to nonresident alien individuals, foreign partnerships or  
3 foreign corporations that have a residence in (or the na-  
4 tionality of a country) that has entered into a tax treaty  
5 with the United States, then the rate of withholding tax  
6 prescribed by the treaty shall govern.”.

7                   **TITLE VII—INDIVIDUAL**  
8                   **DEVELOPMENT ACCOUNTS**

9   **SEC. 701. SHORT TITLE.**

10       This title may be cited as the “Savings for Working  
11 Families Act of 2005”.

12   **SEC. 702. PURPOSES.**

13       The purposes of this title are to provide for the estab-  
14 lishment of individual development account programs that  
15 will—

16               (1) provide individuals and families with limited  
17 means an opportunity to accumulate assets and to  
18 enter the financial mainstream,

19               (2) promote education, homeownership, and the  
20 development of small businesses,

21               (3) stabilize families and build communities,  
22 and

23               (4) support continued United States economic  
24 expansion.

1 **SEC. 703. DEFINITIONS.**

2 As used in this title:

3 (1) **ELIGIBLE INDIVIDUAL.**—The term “eligible  
4 individual” means, with respect to any calendar  
5 year, an individual if—

6 (A) such individual is a member of a quali-  
7 fied family (as defined in section 302 of the In-  
8 ternal Revenue Code of 2005) who is entitled to  
9 a rebate under section 301 of such Code for  
10 any month of such year,

11 (B) the income of such family for the im-  
12 mediately preceding calendar year does not ex-  
13 ceed an amount equal to twice the poverty level,  
14 and

15 (C) such individual is designated under  
16 section 304 to receive the rebate payment under  
17 section 301 for such family.

18 (2) **INDIVIDUAL DEVELOPMENT ACCOUNT.**—  
19 The term “Individual Development Account” means  
20 an account established for an eligible individual as  
21 part of a qualified individual development account  
22 program, but only if the written governing instru-  
23 ment creating the account meets the following re-  
24 quirements:

25 (A) The owner of the account is the indi-  
26 vidual for whom the account was established.

1 (B) No contribution will be accepted unless  
2 it is in cash.

3 (C) The trustee of the account is a quali-  
4 fied financial institution.

5 (D) The assets of the account will not be  
6 commingled with other property except in a  
7 common trust fund or common investment  
8 fund.

9 (E) Except as provided in section 707(b),  
10 any amount in the account may be paid out  
11 only for the purpose of paying the qualified ex-  
12 penses of the account owner.

13 (3) PARALLEL ACCOUNT.—The term “parallel  
14 account” means a separate, parallel individual or  
15 pooled account for all matching funds and earnings  
16 dedicated to an Individual Development Account  
17 owner as part of a qualified individual development  
18 account program, the trustee of which is a qualified  
19 financial institution.

20 (4) QUALIFIED FINANCIAL INSTITUTION.—

21 (A) IN GENERAL.—The term “qualified fi-  
22 nancial institution” means a bank or such other  
23 person who demonstrates to the satisfaction of  
24 the Secretary that the manner in which such

1 other person will administer the trust will be  
2 consistent with the requirements of this section.

3 (B) BANK.—For purposes of subparagraph  
4 (A), the term “bank” means—

5 (i) any bank (as defined in section  
6 581),

7 (ii) an insured credit union (within  
8 the meaning of section 101(6) of the Fed-  
9 eral Credit Union Act), or

10 (iii) a corporation which, under the  
11 laws of the State of its incorporation, is  
12 subject to supervision and examination by  
13 the Commissioner of Banking or other offi-  
14 cer of such State in charge of the adminis-  
15 tration of the banking laws of such State.

16 (5) QUALIFIED INDIVIDUAL DEVELOPMENT AC-  
17 COUNT PROGRAM.—The term “qualified individual  
18 development account program” means a program es-  
19 tablished upon approval of the Secretary under sec-  
20 tion 704 after December 31, 2005, under which—

21 (A) Individual Development Accounts and  
22 parallel accounts are held in trust by a qualified  
23 financial institution, and

24 (B) additional activities determined by the  
25 Secretary, in consultation with the Secretary of

1 Health and Human Services, as necessary to re-  
2 sponsibly develop and administer accounts, in-  
3 cluding recruiting, providing financial education  
4 and other training to Account owners, and reg-  
5 ular program monitoring, are carried out by the  
6 qualified financial institution.

7 (6) QUALIFIED EXPENSE DISTRIBUTION.—

8 (A) IN GENERAL.—The term “qualified ex-  
9 pense distribution” means any amount paid (in-  
10 cluding through electronic payments) or distrib-  
11 uted out of an Individual Development Account  
12 or a parallel account established for an eligible  
13 individual if such amount—

14 (i) is used exclusively to pay the quali-  
15 fied expenses of the Individual Develop-  
16 ment Account owner or such owner’s  
17 spouse or dependents,

18 (ii) is paid by the qualified financial  
19 institution—

20 (I) except as otherwise provided  
21 in this clause, directly to the unre-  
22 lated third party to whom the amount  
23 is due,

24 (II) in the case of any qualified  
25 rollover, directly to another Individual

1 Development Account and parallel ac-  
 2 count, or

3 (III) in the case of a qualified  
 4 final distribution, directly to the  
 5 spouse, dependent, or other named  
 6 beneficiary of the deceased Account  
 7 owner, and

8 (iii) is paid after the Account owner  
 9 has completed a financial education course  
 10 if required under section 705(b).

11 (B) QUALIFIED EXPENSES.—

12 (i) IN GENERAL.—The term “qualified  
 13 expenses” means any of the following ex-  
 14 penses approved by the qualified financial  
 15 institution:

16 (I) Qualified higher education ex-  
 17 penses.

18 (II) Qualified first-time home-  
 19 buyer costs.

20 (III) Qualified business capital-  
 21 ization or expansion costs.

22 (IV) Qualified rollovers.

23 (V) Qualified final distribution.

24 (ii) QUALIFIED HIGHER EDUCATION  
 25 EXPENSES.—

1 (I) IN GENERAL.—The term  
2 “qualified higher education expenses”  
3 means—

4 (aa) tuition, fees, books,  
5 supplies, and equipment required  
6 for the enrollment or attendance  
7 of the designated individual or a  
8 family member at an eligible edu-  
9 cational institution, and

10 (bb) in the case of a special  
11 needs beneficiary, expenses for  
12 special needs services which are  
13 incurred in connection with such  
14 enrollment or attendance.

15 (II) ROOM AND BOARD IN-  
16 CLUDED FOR STUDENTS WHO ARE AT  
17 LEAST HALF-TIME.—

18 (aa) IN GENERAL.—In the  
19 case of an individual who is an  
20 eligible student for any academic  
21 period, such term shall also in-  
22 clude reasonable costs for such  
23 period (as determined under the  
24 qualified tuition program) in-  
25 curred by the designated bene-

1           fiary for room and board while  
2           attending such institution.

3                   (bb)       LIMITATION.—The  
4           amount treated as qualified high-  
5           er education expenses by reason  
6           of this subclause shall not exceed  
7           the allowance (applicable to the  
8           student) for room and board in-  
9           cluded in the cost of attendance  
10          (as defined in section 472 of the  
11          Higher Education Act of 1965  
12          (20 U.S.C. 1087ll), as in effect  
13          on the date of the enactment of  
14          the Economic Growth and Tax  
15          Relief Reconciliation Act of  
16          2001) as determined by the eligi-  
17          ble educational institution for  
18          such period, or, if greater, the ac-  
19          tual invoice amount the student  
20          residing in housing owned or op-  
21          erated by the eligible educational  
22          institution is charged by such in-  
23          stitution for room and board  
24          costs for such period.

1 (cc) ELIGIBLE STUDENT.—

2 For purposes of this subclause,  
3 the term “eligible student”  
4 means, with respect to any aca-  
5 demic period, a student who  
6 meets the requirements of section  
7 484(a)(1) of the Higher Edu-  
8 cation Act of 1965 (20 U.S.C.  
9 1091(a)(1)), as in effect on the  
10 date of the enactment of this sec-  
11 tion, and is carrying at least 1/2  
12 the normal full-time work load  
13 for the course of study the stu-  
14 dent is pursuing.

15 (iii) QUALIFIED FIRST-TIME HOME-  
16 BUYER COSTS.—

17 (I) IN GENERAL.—The term  
18 “qualified first-time homebuyer costs”  
19 means qualified acquisition costs with  
20 respect to a principal residence for a  
21 qualified first-time homebuyer.

22 (II) QUALIFIED ACQUISITION  
23 COSTS.— For purposes of this clause,  
24 the term “qualified acquisition costs”  
25 means the costs of acquiring, con-

1 structing, or reconstructing a resi-  
2 dence. Such term includes any usual  
3 or reasonable settlement, financing, or  
4 other closing costs.

5 (III) FIRST-TIME HOMEBUYER.—

6 For purposes of this clause, the term  
7 “first-time homebuyer” means any in-  
8 dividual if—

9 (aa) such individual (and if  
10 married, such individual’s  
11 spouse) had no present ownership  
12 interest in a principal residence  
13 during the 2-year period ending  
14 on the date of acquisition of the  
15 principal residence to which this  
16 paragraph applies, and

17 (bb) subsection (h) or (k) of  
18 section 1034 (as in effect on the  
19 day before the date of the enact-  
20 ment of this section) did not sus-  
21 pend the running of any period  
22 of time specified in section 1034  
23 (as so in effect) with respect to  
24 such individual on the day before  
25 the date the distribution is ap-

1                   plied pursuant to subparagraph  
2                   (A).

3                   (IV) DATE OF ACQUISITION.—

4                   The term “date of acquisition” means  
5                   the date—

6                               (aa) on which a binding con-  
7                               tract to acquire the principal res-  
8                               idence to which subparagraph  
9                               (A) applies is entered into, or

10                              (bb) on which construction  
11                              or reconstruction of such a prin-  
12                              cipal residence is commenced.

13                   (V) SPECIAL RULE WHERE  
14                   DELAY IN ACQUISITION.—If any dis-

15                   tribution fails to meet the require-  
16                   ments of subclause (I) solely by rea-  
17                   son of a delay or cancellation of the  
18                   purchase or construction of the resi-  
19                   dence, the amount of the distribution  
20                   may be recontributed to an Individual  
21                   Development Account of the indi-  
22                   vidual.

23                   (iv) QUALIFIED BUSINESS CAPITAL-  
24                   IZATION OR EXPANSION COSTS.—

1 (I) IN GENERAL.—The term  
2 “qualified business capitalization or  
3 expansion costs” means qualified ex-  
4 penditures for the capitalization or ex-  
5 pansion of a qualified business pursu-  
6 ant to a qualified business plan.

7 (II) QUALIFIED EXPENDI-  
8 TURES.—The term “qualified expendi-  
9 tures” means expenditures normally  
10 associated with starting or expanding  
11 a business and included in a qualified  
12 business plan, including costs for cap-  
13 ital, plant, and equipment, inventory  
14 expenses, and attorney and accounting  
15 fees.

16 (III) QUALIFIED BUSINESS.—  
17 The term “qualified business” means  
18 any business that does not contravene  
19 any law.

20 (IV) QUALIFIED BUSINESS  
21 PLAN.—The term “qualified business  
22 plan” means a business plan which  
23 has been approved by the qualified fi-  
24 nancial institution and which meets

1           such requirements as the Secretary  
2           may specify.

3           (v) QUALIFIED ROLLOVERS.—The  
4           term “qualified rollover” means the com-  
5           plete distribution of the amounts in an In-  
6           dividual Development Account and parallel  
7           account to another Individual Development  
8           Account and parallel account established in  
9           another qualified financial institution for  
10          the benefit of the Account owner.

11          (vi) QUALIFIED FINAL DISTRIBUTION.—The term “qualified final distribu-  
12          tion” means, in the case of a deceased Ac-  
13          count owner, the complete distribution of  
14          the amounts in the Individual Development  
15          Account and parallel account directly to  
16          the spouse, any dependent, or other named  
17          beneficiary of the deceased.

18  
19          (7) SECRETARY.—The term “Secretary” means  
20          the Secretary of the Treasury.

21 **SEC. 704. STRUCTURE AND ADMINISTRATION OF QUALI-**  
22 **FIED INDIVIDUAL DEVELOPMENT ACCOUNT**  
23 **PROGRAMS.**

24          (a) ESTABLISHMENT OF QUALIFIED INDIVIDUAL DE-  
25          VELOPMENT ACCOUNT PROGRAMS.—Any qualified finan-

1 cial institution may apply to the Secretary for approval  
2 to establish 1 or more qualified individual development ac-  
3 count programs which meet the requirements of this title  
4 and for payments under section 711.

5 (b) BASIC PROGRAM STRUCTURE.—

6 (1) IN GENERAL.—All qualified individual de-  
7 velopment account programs shall consist of the fol-  
8 lowing 2 components for each participant:

9 (A) An Individual Development Account to  
10 which an eligible individual may contribute cash  
11 in accordance with section 705.

12 (B) A parallel account to which all match-  
13 ing funds shall be deposited in accordance with  
14 section 706.

15 (2) TAILORED IDA PROGRAMS.—A qualified fi-  
16 nancial institution may tailor its qualified individual  
17 development account program to allow matching  
18 funds to be spent on 1 or more of the categories of  
19 qualified expenses.

20 (c) COORDINATION WITH PUBLIC HOUSING AGENCY  
21 INDIVIDUAL SAVINGS ACCOUNTS.—Section 3(e)(2) of the  
22 United States Housing Act of 1937 (42 U.S.C.  
23 1437a(e)(2)) is amended by inserting “or in any Indi-  
24 vidual Development Account established under the Sav-

1 ings for Working Families Act of 2005” after “sub-  
2 section”.

3 **SEC. 705. PROCEDURES FOR OPENING AND MAINTAINING**  
4 **AN INDIVIDUAL DEVELOPMENT ACCOUNT**  
5 **AND QUALIFYING FOR MATCHING FUNDS.**

6 (a) **OPENING AN ACCOUNT.**—An eligible individual  
7 may open an Individual Development Account with a  
8 qualified financial institution upon certification that such  
9 individual has never maintained any other Individual De-  
10 velopment Account (other than an Individual Development  
11 Account to be terminated by a qualified rollover).

12 (b) **REQUIRED COMPLETION OF FINANCIAL EDU-**  
13 **CATION COURSE.**—

14 (1) **IN GENERAL.**—Before becoming eligible to  
15 withdraw funds to pay for qualified expenses, owners  
16 of Individual Development Accounts must complete  
17 1 or more financial education courses specified in  
18 the qualified individual development account pro-  
19 gram.

20 (2) **STANDARD AND APPLICABILITY OF**  
21 **COURSE.**—The Secretary, in consultation with rep-  
22 resentatives of qualified individual development ac-  
23 count programs and financial educators, shall, not  
24 later than January 1, 2007, establish minimum  
25 quality standards for the contents of financial edu-

1 cation courses and providers of such courses de-  
 2 scribed in paragraph (1) and a protocol to exempt  
 3 individuals from the requirement under paragraph  
 4 (1) in the case of hardship, lack of need, or a quali-  
 5 fied final distribution.

6 (c) **PROOF OF STATUS AS AN ELIGIBLE INDI-**  
 7 **VIDUAL.**—Any evidence of eligibility which may be re-  
 8 quired by a qualified financial institution shall be pre-  
 9 sented to such institution at the time of the establishment  
 10 of the Individual Development Account and in any cal-  
 11 endar year in which contributions are made to the Account  
 12 to qualify for matching funds under section 706(b)(1)(A).

13 **SEC. 706. DEPOSITS BY QUALIFIED INDIVIDUAL DEVELOP-**  
 14 **MENT ACCOUNT PROGRAMS.**

15 (a) **PARALLEL ACCOUNTS.**—The qualified financial  
 16 institution shall deposit all matching funds for each Indi-  
 17 vidual Development Account into a parallel account at a  
 18 qualified financial institution.

19 (b) **REGULAR DEPOSITS OF MATCHING FUNDS.**—

20 (1) **IN GENERAL.**—Subject to paragraph (2),  
 21 the qualified financial institution shall deposit into  
 22 the parallel account with respect to each eligible in-  
 23 dividual the following amounts:

24 (A) A dollar-for-dollar match for the first  
 25 \$500 contributed by the eligible individual into

1 an Individual Development Account with re-  
2 spect to any calendar year of such individual.

3 (B) Any matching funds provided by State,  
4 local, or private sources in accordance with the  
5 matching ratio set by those sources.

6 (2) TIMING OF DEPOSITS.—A deposit of the  
7 amounts described in paragraph (1) shall be made  
8 into a parallel account—

9 (A) in the case of amounts described in  
10 paragraph (1)(A), not later than 30 days after  
11 the end of the calendar quarter during which  
12 the contribution described in such paragraph  
13 was made, and

14 (B) in the case of amounts described in  
15 paragraph (1)(B), not later than 2 business  
16 days after such amounts were provided.

17 (c) UNIFORM ACCOUNTING REGULATIONS.—To en-  
18 sure proper recordkeeping and determination of the pay-  
19 ments under section 711, the Secretary shall prescribe  
20 regulations with respect to accounting for matching funds  
21 in the parallel accounts.

22 (d) REGULAR REPORTING OF ACCOUNTS.—Any  
23 qualified financial institution shall report the balances in  
24 any Individual Development Account and parallel account

1 of an individual on not less than an annual basis to such  
2 individual.

3 **SEC. 707. WITHDRAWAL PROCEDURES.**

4 (a) WITHDRAWALS FOR QUALIFIED EXPENSES.—

5 (1) IN GENERAL.—An Individual Development  
6 Account owner may withdraw funds in order to pay  
7 qualified expense distributions from such individ-  
8 ual's—

9 (A) Individual Development Account, but  
10 only from funds which have been on deposit in  
11 such Account for at least 1 year, and

12 (B) parallel account, but only—

13 (i) from matching funds which have  
14 been on deposit in such parallel account  
15 for at least 1 year,

16 (ii) from earnings in such parallel ac-  
17 count, after all matching funds described  
18 in clause (i) have been withdrawn, and

19 (iii) to the extent such withdrawal  
20 does not result in a remaining balance in  
21 such parallel account which is less than the  
22 remaining balance in the Individual Devel-  
23 opment Account after such withdrawal.

24 (2) PROCEDURE.—Upon receipt of a with-  
25 drawal request which meets the requirements of

1 paragraph (1), the qualified financial institution  
2 shall directly transfer the funds electronically to the  
3 distributees described in section 703(6)(A)(ii). If a  
4 distributee is not equipped to receive funds electroni-  
5 cally, the qualified financial institution may issue  
6 such funds by paper check to the distributee.

7 (b) WITHDRAWALS FOR NONQUALIFIED EX-  
8 PENSES.—An Individual Development Account owner may  
9 withdraw any amount of funds from the Individual Devel-  
10 opment Account for purposes other than to pay qualified  
11 expense distributions, but if, after such withdrawal, the  
12 amount in the parallel account of such owner (excluding  
13 earnings on matching funds) exceeds the amount remain-  
14 ing in such Individual Development Account, then such  
15 owner shall forfeit to the United States from the parallel  
16 account the lesser of such excess or the amount with-  
17 drawn.

18 (c) WITHDRAWALS FROM ACCOUNTS OF NON-  
19 ELIGIBLE INDIVIDUALS.—If the individual for whose ben-  
20 efit an Individual Development Account is established  
21 ceases to be an eligible individual, such account shall re-  
22 main an Individual Development Account, but such indi-  
23 vidual shall not be eligible for any further matching funds  
24 under section 706(b)(1)(A) for contributions which are

1 made to the Account during any calendar year when such  
2 individual is not an eligible individual.

3 (d) EFFECT OF PLEDGING ACCOUNT AS SECUR-  
4 RITY.—If, during any calendar year of the individual for  
5 whose benefit an Individual Development Account is es-  
6 tablished, that individual uses the Account, the individ-  
7 ual’s parallel account, or any portion thereof as security  
8 for a loan, the portion so used shall be treated as a with-  
9 drawal of such portion from the Individual Development  
10 Account for purposes other than to pay qualified expenses.

11 **SEC. 708. CERTIFICATION AND TERMINATION OF QUALI-**  
12 **FIED INDIVIDUAL DEVELOPMENT ACCOUNT**  
13 **PROGRAMS.**

14 (a) CERTIFICATION PROCEDURES.—Upon estab-  
15 lishing a qualified individual development account pro-  
16 gram under section 704, a qualified financial institution  
17 shall certify to the Secretary at such time and in such  
18 manner as may be prescribed by the Secretary and accom-  
19 panied by any documentation required by the Secretary,  
20 that—

21 (1) the accounts described in subparagraphs  
22 (A) and (B) of section 704(b)(1) are operating pur-  
23 suant to all the provisions of this title, and

24 (2) the qualified financial institution agrees to  
25 implement an information system necessary to mon-

1       itor the cost and outcomes of the qualified individual  
2       development account program.

3       (b) **AUTHORITY TO TERMINATE QUALIFIED IDA**  
4 **PROGRAM.**—If the Secretary determines that a qualified  
5 financial institution under this title is not operating a  
6 qualified individual development account program in ac-  
7 cordance with the requirements of this title (and has not  
8 implemented any corrective recommendations directed by  
9 the Secretary), the Secretary shall terminate such institu-  
10 tion’s authority to conduct the program. If the Secretary  
11 is unable to identify a qualified financial institution to as-  
12 sume the authority to conduct such program, then any  
13 funds in a parallel account established for the benefit of  
14 any individual under such program shall be deposited into  
15 the Individual Development Account of such individual as  
16 of the first day of such termination.

17 **SEC. 709. REPORTING, MONITORING, AND EVALUATION.**

18       (a) **RESPONSIBILITIES OF QUALIFIED FINANCIAL IN-**  
19 **STITUTIONS.**—

20           (1) **IN GENERAL.**—Each qualified financial in-  
21 stitution that operates a qualified individual develop-  
22 ment account program under section 704 shall re-  
23 port annually to the Secretary within 90 days after  
24 the end of each calendar year on—

1 (A) the number of individuals making con-  
2 tributions into Individual Development Ac-  
3 counts and the amounts contributed,

4 (B) the amounts contributed into Indi-  
5 vidual Development Accounts by eligible individ-  
6 uals and the amounts deposited into parallel ac-  
7 counts for matching funds,

8 (C) the amounts withdrawn from Indi-  
9 vidual Development Accounts and parallel ac-  
10 counts, and the purposes for which such  
11 amounts were withdrawn,

12 (D) the balances remaining in Individual  
13 Development Accounts and parallel accounts,  
14 and

15 (E) such other information needed to help  
16 the Secretary monitor the effectiveness of the  
17 qualified individual development account pro-  
18 gram (provided in a nonindividually-identifiable  
19 manner).

20 (2) ADDITIONAL REPORTING REQUIREMENTS.—

21 Each qualified financial institution that operates a  
22 qualified individual development account program  
23 under section 704 shall report at such time and in  
24 such manner as the Secretary may prescribe any ad-  
25 ditional information that the Secretary requires to

1 be provided for purposes of administering and super-  
2 vising the qualified individual development account  
3 program. This additional data may include, without  
4 limitation, identifying information about Individual  
5 Development Account owners, their Accounts, addi-  
6 tions to the Accounts, and withdrawals from the Ac-  
7 counts.

8 (b) RESPONSIBILITIES OF THE SECRETARY.—

9 (1) MONITORING PROTOCOL.—Not later than  
10 12 months after the date of the enactment of this  
11 Act, the Secretary, in consultation with the Sec-  
12 retary of Health and Human Services, shall develop  
13 and implement a protocol and process to monitor the  
14 cost and outcomes of the qualified individual devel-  
15 opment account programs established under section  
16 704.

17 (2) ANNUAL REPORTS.—For each year after  
18 2006, the Secretary shall submit a progress report  
19 to Congress on the status of such qualified indi-  
20 vidual development account programs. Such report  
21 shall, to the extent data are available, include from  
22 a representative sample of qualified individual devel-  
23 opment account programs information on—

24 (A) the characteristics of participants, in-  
25 cluding age, gender, marital status, number of

1 children, employment status, and monthly in-  
2 come,

3 (B) deposits, withdrawals, balances, uses  
4 of Individual Development Accounts, and par-  
5 ticipant characteristics,

6 (C) the characteristics of qualified indi-  
7 vidual development account programs, including  
8 match rate, economic education requirements,  
9 permissible uses of accounts, staffing of pro-  
10 grams in full-time employees, and the total  
11 costs of programs, and

12 (D) process information on program imple-  
13 mentation and administration, especially on  
14 problems encountered and how problems were  
15 solved.

16 (3) REAUTHORIZATION REPORT ON COST AND  
17 OUTCOMES OF IDAS.—

18 (A) IN GENERAL.—Not later than July 1,  
19 2011, the Secretary of the Treasury shall sub-  
20 mit a report to Congress and the chairmen and  
21 ranking members of the Committee on Finance,  
22 the Committee on Banking, Housing, and  
23 Urban Affairs, and the Committee on Health,  
24 Education, Labor, and Pensions of the Senate  
25 and the Committee on Ways and Means, the

1 Committee on Banking and Financial Services,  
2 and the Committee on Education and the  
3 Workforce of the House of Representatives, in  
4 which the Secretary shall—

5 (i) summarize the previously sub-  
6 mitted annual reports required under para-  
7 graph (2),

8 (ii) from a representative sample of  
9 qualified individual development account  
10 programs, include an analysis of—

11 (I) the economic, social, and be-  
12 havioral outcomes,

13 (II) the changes in savings rates,  
14 asset holdings, and household debt,  
15 and overall changes in economic sta-  
16 bility,

17 (III) the changes in outlooks, at-  
18 titudes, and behavior regarding sav-  
19 ings strategies, investment, education,  
20 and family,

21 (IV) the integration into the fi-  
22 nancial mainstream, including de-  
23 creased reliance on alternative finan-  
24 cial services and increase in acquisi-

1                   tion of mainstream financial products,  
2                   and

3                   (V) the involvement in civic af-  
4                   fairs, including neighborhood schools  
5                   and associations,

6                   associated with participation in qualified  
7                   individual development account programs,

8                   (iii) from a representative sample of  
9                   qualified individual development account  
10                  programs, include a comparison of out-  
11                  comes associated with such programs with  
12                  outcomes associated with other Federal  
13                  Government social and economic develop-  
14                  ment programs, including asset building  
15                  programs, and

16                  (iv) make recommendations regarding  
17                  the reauthorization of the qualified indi-  
18                  vidual development account programs, in-  
19                  cluding—

20                  (I) recommendations regarding  
21                  reforms that will improve the cost and  
22                  outcomes of the such programs, in-  
23                  cluding the ability to help low-income  
24                  families save and accumulate produc-  
25                  tive assets,

1 (II) recommendations regarding  
2 the appropriate levels of subsidies to  
3 provide effective incentives to financial  
4 institutions and Account owners under  
5 such programs, and

6 (III) recommendations regarding  
7 how such programs should be inte-  
8 grated into other Federal poverty re-  
9 duction, asset building, and commu-  
10 nity development policies and pro-  
11 grams.

12 (B) AUTHORIZATION.—There is authorized  
13 to be appropriated \$2,500,000, for carrying out  
14 the purposes of this paragraph.

15 (4) USE OF ACCOUNTS IN RURAL AREAS EN-  
16 COURAGED.—The Secretary shall develop methods to  
17 encourage the use of Individual Development Ac-  
18 counts in rural areas.

19 **SEC. 710. AUTHORIZATION OF APPROPRIATIONS.**

20 There is authorized to be appropriated to the Sec-  
21 retary such sums as may be necessary for the purposes  
22 of implementing this title, including the reporting, moni-  
23 toring, and evaluation required under section 709, to re-  
24 main available until expended.

1 **SEC. 711. MATCHING FUNDS FOR INDIVIDUAL DEVELOP-**  
2 **MENT ACCOUNTS PROVIDED FOR QUALIFIED**  
3 **FINANCIAL INSTITUTIONS.**

4 (a) **IN GENERAL.**—Each qualified financial institu-  
5 tion shall be entitled, for each calendar year, to a payment  
6 from the Secretary in an amount equal to the individual  
7 development account investment provided by such institu-  
8 tion during such year under an individual development ac-  
9 count program established under section 704.

10 (b) **INDIVIDUAL DEVELOPMENT ACCOUNT INVEST-**  
11 **MENT.**—For purposes of this section, the term “individual  
12 development account investment” means, with respect to  
13 an individual development account program in any cal-  
14 endar year, an amount equal to the sum of—

15 (1) the aggregate amount of dollar-for-dollar  
16 matches under such program under section  
17 706(b)(1)(A) for such calendar year, plus

18 (2) \$50 with respect to each Individual Devel-  
19 opment Account maintained as of the end of such  
20 calendar year, with a balance of not less than \$100  
21 (other than the calendar year in which such Account  
22 is opened).

23 (c) **REGULATIONS.**—The Secretary may prescribe  
24 such regulations as may be necessary or appropriate to  
25 carry out this section, including regulations providing for  
26 a repayment of any amount paid under this section (not-

1 withstanding any termination date described in subsection  
2 (d)) in cases where there is a forfeiture under section  
3 707(b) in a subsequent calendar year of any amount which  
4 was taken into account in determining the amount of such  
5 payment.

6 (d) APPLICATION OF SECTION.—This section shall  
7 apply to any expenditure made in calendar years after  
8 2005.

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