

In the Senate of the United States,

February 1, 2007.

Resolved, That the bill from the House of Representatives (H.R. 2) entitled “An Act to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***TITLE I—FAIR MINIMUM WAGE***

2 ***SEC. 100. SHORT TITLE.***

3 *This title may be cited as the “Fair Minimum Wage*

4 *Act of 2007”.*

1 **SEC. 101. MINIMUM WAGE.**

2 (a) *IN GENERAL.*—Section 6(a)(1) of the Fair Labor
3 Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended
4 to read as follows:

5 “(1) except as otherwise provided in this section,
6 not less than—

7 “(A) \$5.85 an hour, beginning on the 60th
8 day after the date of enactment of the Fair Min-
9 imum Wage Act of 2007;

10 “(B) \$6.55 an hour, beginning 12 months
11 after that 60th day; and

12 “(C) \$7.25 an hour, beginning 24 months
13 after that 60th day;”.

14 (b) *EFFECTIVE DATE.*—The amendment made by sub-
15 section (a) shall take effect 60 days after the date of enact-
16 ment of this Act.

17 **SEC. 102. APPLICABILITY OF MINIMUM WAGE TO THE COM-**
18 **MONWEALTH OF THE NORTHERN MARIANA**
19 **ISLANDS.**

20 (a) *IN GENERAL.*—Section 6 of the Fair Labor Stand-
21 ards Act of 1938 (29 U.S.C. 206) shall apply to the Com-
22 monwealth of the Northern Mariana Islands.

23 (b) *TRANSITION.*—Notwithstanding subsection (a), the
24 minimum wage applicable to the Commonwealth of the
25 Northern Mariana Islands under section 6(a)(1) of the Fair

1 *Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall*
2 *be—*

3 (1) *\$3.55 an hour, beginning on the 60th day*
4 *after the date of enactment of this Act; and*

5 (2) *increased by \$0.50 an hour (or such lesser*
6 *amount as may be necessary to equal the minimum*
7 *wage under section 6(a)(1) of such Act), beginning 6*
8 *months after the date of enactment of this Act and*
9 *every 6 months thereafter until the minimum wage*
10 *applicable to the Commonwealth of the Northern Mar-*
11 *iana Islands under this subsection is equal to the*
12 *minimum wage set forth in such section.*

13 ***TITLE II—SMALL BUSINESS TAX***
14 ***INCENTIVES***

15 ***SEC. 200. SHORT TITLE; AMENDMENT OF CODE.***

16 (a) *SHORT TITLE.*—*This title may be cited as the*
17 *“Small Business and Work Opportunity Act of 2007”.*

18 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
19 *expressly provided, whenever in this title an amendment*
20 *or repeal is expressed in terms of an amendment to, or re-*
21 *peal of, a section or other provision, the reference shall be*
22 *considered to be made to a section or other provision of the*
23 *Internal Revenue Code of 1986.*

1 ***Subtitle A—Small Business Tax***
2 ***Relief Provisions***

3 ***PART I—GENERAL PROVISIONS***

4 ***SEC. 201. EXTENSION OF INCREASED EXPENSING FOR***
5 ***SMALL BUSINESSES.***

6 *Section 179 (relating to election to expense certain de-*
7 *preciable business assets) is amended by striking “2010”*
8 *each place it appears and inserting “2011”.*

9 ***SEC. 202. EXTENSION AND MODIFICATION OF 15-YEAR***
10 ***STRAIGHT-LINE COST RECOVERY FOR QUALI-***
11 ***FIED LEASEHOLD IMPROVEMENTS AND***
12 ***QUALIFIED RESTAURANT IMPROVEMENTS; 15-***
13 ***YEAR STRAIGHT-LINE COST RECOVERY FOR***
14 ***CERTAIN IMPROVEMENTS TO RETAIL SPACE.***

15 *(a) EXTENSION OF LEASEHOLD AND RESTAURANT IM-*
16 *PROVEMENTS.—*

17 *(1) IN GENERAL.—*Clauses *(iv) and (v) of section*
18 *168(e)(3)(E) (relating to 15-year property) are each*
19 *amended by striking “January 1, 2008” and insert-*
20 *ing “April 1, 2008”.*

21 *(2) EFFECTIVE DATE.—*The amendment made by
22 *this subsection shall apply to property placed in serv-*
23 *ice after December 31, 2007.*

1 ***(b) MODIFICATION OF TREATMENT OF QUALIFIED***
2 ***RESTAURANT PROPERTY AS 15-YEAR PROPERTY FOR PUR-***
3 ***POSES OF DEPRECIATION DEDUCTION.—***

4 ***(1) TREATMENT TO INCLUDE NEW CONSTRU-***
5 ***CTION.—Paragraph (7) of section 168(e) (relating to***
6 ***classification of property) is amended to read as fol-***
7 ***lows:***

8 ***“(7) QUALIFIED RESTAURANT PROPERTY.—The***
9 ***term ‘qualified restaurant property’ means any sec-***
10 ***tion 1250 property which is a building (or its struc-***
11 ***tural components) or an improvement to such build-***
12 ***ing if more than 50 percent of such building’s square***
13 ***footage is devoted to preparation of, and seating for***
14 ***on-premises consumption of, prepared meals.”.***

15 ***(2) EFFECTIVE DATE.—The amendment made by***
16 ***this subsection shall apply to any property placed in***
17 ***service after the date of the enactment of this Act, the***
18 ***original use of which begins with the taxpayer after***
19 ***such date.***

20 ***(c) RECOVERY PERIOD FOR DEPRECIATION OF CER-***
21 ***TAIN IMPROVEMENTS TO RETAIL SPACE.—***

22 ***(1) 15-YEAR RECOVERY PERIOD.—Section***
23 ***168(e)(3)(E) (relating to 15-year property) is amend-***
24 ***ed by striking “and” at the end of clause (vii), by***
25 ***striking the period at the end of clause (viii) and in-***

1 serting “, and”, and by adding at the end the fol-
 2 lowing new clause:

3 “(ix) any qualified retail improvement
 4 property placed in service before April 1,
 5 2008.”.

6 (2) *QUALIFIED RETAIL IMPROVEMENT PROP-*
 7 *ERTY.*—Section 168(e) is amended by adding at the
 8 end the following new paragraph:

9 “(8) *QUALIFIED RETAIL IMPROVEMENT PROP-*
 10 *ERTY.*—

11 “(A) *IN GENERAL.*—The term ‘qualified re-
 12 tail improvement property’ means any improve-
 13 ment to an interior portion of a building which
 14 is nonresidential real property if—

15 “(i) such portion is open to the general
 16 public and is used in the retail trade or
 17 business of selling tangible personal prop-
 18 erty to the general public, and

19 “(ii) such improvement is placed in
 20 service more than 3 years after the date the
 21 building was first placed in service.

22 “(B) *IMPROVEMENTS MADE BY OWNER.*—In
 23 the case of an improvement made by the owner
 24 of such improvement, such improvement shall be
 25 qualified retail improvement property (if at all)

1 *only so long as such improvement is held by such*
 2 *owner. Rules similar to the rules under para-*
 3 *graph (6)(B) shall apply for purposes of the pre-*
 4 *ceding sentence.*

5 “(C) *CERTAIN IMPROVEMENTS NOT IN-*
 6 *CLUDED.—Such term shall not include any im-*
 7 *provement for which the expenditure is attrib-*
 8 *utable to—*

9 “(i) *the enlargement of the building,*

10 “(ii) *any elevator or escalator,*

11 “(iii) *any structural component bene-*
 12 *fitting a common area, or*

13 “(iv) *the internal structural framework*
 14 *of the building.”.*

15 (3) *REQUIREMENT TO USE STRAIGHT LINE*
 16 *METHOD.—Section 168(b)(3) is amended by adding*
 17 *at the end the following new subparagraph:*

18 “(I) *Qualified retail improvement property*
 19 *described in subsection (e)(8).”.*

20 (4) *ALTERNATIVE SYSTEM.—The table contained*
 21 *in section 168(g)(3)(B) is amended by inserting after*
 22 *the item relating to subparagraph (E)(viii) the fol-*
 23 *lowing new item:*

“(E)(ix) 39”.

1 (5) *EFFECTIVE DATE.*—*The amendments made*
2 *by this section shall apply to property placed in serv-*
3 *ice after the date of the enactment of this Act.*

4 **SEC. 203. CLARIFICATION OF CASH ACCOUNTING RULES**
5 **FOR SMALL BUSINESS.**

6 (a) *CASH ACCOUNTING PERMITTED.*—

7 (1) *IN GENERAL.*—*Section 446 (relating to gen-*
8 *eral rule for methods of accounting) is amended by*
9 *adding at the end the following new subsection:*

10 “(g) *CERTAIN SMALL BUSINESS TAXPAYERS PER-*
11 *MITTED TO USE CASH ACCOUNTING METHOD WITHOUT*
12 *LIMITATION.*—

13 “(1) *IN GENERAL.*—*An eligible taxpayer shall*
14 *not be required to use an accrual method of account-*
15 *ing for any taxable year.*

16 “(2) *ELIGIBLE TAXPAYER.*—*For purposes of this*
17 *subsection, a taxpayer is an eligible taxpayer with re-*
18 *spect to any taxable year if—*

19 “(A) *for each of the prior taxable years end-*
20 *ing on or after the date of the enactment of this*
21 *subsection, the taxpayer (or any predecessor) met*
22 *the gross receipts test in effect under section*
23 *448(c) for such taxable year, and*

24 “(B) *the taxpayer is not subject to section*
25 *447 or 448.”.*

1 (2) *EXPANSION OF GROSS RECEIPTS TEST.*—

2 (A) *IN GENERAL.*—*Paragraph (3) of section*
3 448(b) (relating to entities with gross receipts of
4 not more than \$5,000,000) is amended to read as
5 follows:

6 “(3) *ENTITIES MEETING GROSS RECEIPTS*
7 *TEST.*—*Paragraphs (1) and (2) of subsection (a) shall*
8 *not apply to any corporation or partnership for any*
9 *taxable year if, for each of the prior taxable years*
10 *ending on or after the date of the enactment of the*
11 *Small Business and Work Opportunity Act of 2007,*
12 *the entity (or any predecessor) met the gross receipts*
13 *test in effect under subsection (c) for such prior tax-*
14 *able year.”.*

15 (B) *CONFORMING AMENDMENTS.*—*Section*
16 448(c) of such Code is amended—

17 (i) by striking “\$5,000,000” in the
18 heading thereof,

19 (ii) by striking “\$5,000,000” each
20 place it appears in paragraph (1) and in-
21 serting “\$10,000,000”, and

22 (iii) by adding at the end the following
23 new paragraph:

24 “(4) *INFLATION ADJUSTMENT.*—*In the case of*
25 *any taxable year beginning in a calendar year after*

1 2008, the dollar amount contained in paragraph (1)
2 shall be increased by an amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-
5 mined under section 1(f)(3) for the calendar year
6 in which the taxable year begins, by substituting
7 ‘calendar year 2007’ for ‘calendar year 1992’ in
8 subparagraph (B) thereof.

9 If any amount as adjusted under this subparagraph
10 is not a multiple of \$100,000, such amount shall be
11 rounded to the nearest multiple of \$100,000.”.

12 (b) *CLARIFICATION OF INVENTORY RULES FOR SMALL*
13 *BUSINESS.*—

14 (1) *IN GENERAL.*—Section 471 (relating to gen-
15 eral rule for inventories) is amended by redesignating
16 subsection (c) as subsection (d) and by inserting after
17 subsection (b) the following new subsection:

18 “(c) *SMALL BUSINESS TAXPAYERS NOT REQUIRED TO*
19 *USE INVENTORIES.*—

20 “(1) *IN GENERAL.*—A qualified taxpayer shall
21 not be required to use inventories under this section
22 for a taxable year.

23 “(2) *TREATMENT OF TAXPAYERS NOT USING IN-*
24 *VENTORIES.*—If a qualified taxpayer does not use in-
25 ventories with respect to any property for any taxable

1 *year beginning after the date of the enactment of this*
2 *subsection, such property shall be treated as a mate-*
3 *rial or supply which is not incidental.*

4 “(3) *QUALIFIED TAXPAYER.*—*For purposes of*
5 *this subsection, the term ‘qualified taxpayer’ means—*

6 “(A) *any eligible taxpayer (as defined in*
7 *section 446(g)(2)), and*

8 “(B) *any taxpayer described in section*
9 *448(b)(3).”.*

10 (2) *CONFORMING AMENDMENTS.*—

11 (A) *Subpart D of part II of subchapter E*
12 *of chapter 1 is amended by striking section 474.*

13 (B) *The table of sections for subpart D of*
14 *part II of subchapter E of chapter 1 is amended*
15 *by striking the item relating to section 474.*

16 (c) *EFFECTIVE DATE AND SPECIAL RULES.*—

17 (1) *IN GENERAL.*—*The amendments made by*
18 *this section shall apply to taxable years beginning*
19 *after the date of the enactment of this Act.*

20 (2) *CHANGE IN METHOD OF ACCOUNTING.*—*In*
21 *the case of any taxpayer changing the taxpayer’s*
22 *method of accounting for any taxable year under the*
23 *amendments made by this section—*

24 (A) *such change shall be treated as initiated*
25 *by the taxpayer;*

1 (B) such change shall be treated as made
2 with the consent of the Secretary of the Treasury;
3 and

4 (C) the net amount of the adjustments re-
5 quired to be taken into account by the taxpayer
6 under section 481 of the Internal Revenue Code
7 of 1986 shall be taken into account over a period
8 (not greater than 4 taxable years) beginning
9 with such taxable year.

10 **SEC. 204. EXTENSION AND MODIFICATION OF COMBINED**
11 **WORK OPPORTUNITY TAX CREDIT AND WEL-**
12 **FARE-TO-WORK CREDIT.**

13 (a) *EXTENSION.*—Section 51(c)(4)(B) (relating to ter-
14 mination) is amended by striking “2007” and inserting
15 “2012”.

16 (b) *INCREASE IN MAXIMUM AGE FOR DESIGNATED*
17 *COMMUNITY RESIDENTS.*—

18 (1) *IN GENERAL.*—Paragraph (5) of section
19 51(d) is amended to read as follows:

20 “(5) *DESIGNATED COMMUNITY RESIDENTS.*—

21 “(A) *IN GENERAL.*—The term ‘designated
22 community resident’ means any individual who
23 is certified by the designated local agency—

24 “(i) as having attained age 18 but not
25 age 40 on the hiring date, and

1 “(ii) as having his principal place of
2 abode within an empowerment zone, enter-
3 prise community, or renewal community.

4 “(B) INDIVIDUAL MUST CONTINUE TO RE-
5 SIDE IN ZONE OR COMMUNITY.—In the case of a
6 designated community resident, the term ‘quali-
7 fied wages’ shall not include wages paid or in-
8 curred for services performed while the individ-
9 ual’s principal place of abode is outside an em-
10 powerment zone, enterprise community, or re-
11 newal community.”.

12 (2) CONFORMING AMENDMENT.—Subparagraph
13 (D) of section 51(d)(1) is amended to read as follows:

14 “(D) a designated community resident,”.

15 (c) CLARIFICATION OF TREATMENT OF INDIVIDUALS
16 UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B) of
17 section 51(d)(6) (relating to vocational rehabilitation refer-
18 ral) is amended by striking “or” at the end of clause (i),
19 by striking the period at the end of clause (ii) and inserting
20 “, or”, and by adding at the end the following new clause:

21 “(iii) an individual work plan devel-
22 oped and implemented by an employment
23 network pursuant to subsection (g) of sec-
24 tion 1148 of the Social Security Act with

1 *respect to which the requirements of such*
 2 *subsection are met.”.*

3 *(d) TREATMENT OF DISABLED VETERANS UNDER THE*
 4 *WORK OPPORTUNITY TAX CREDIT.—*

5 *(1) DISABLED VETERANS TREATED AS MEMBERS*
 6 *OF TARGETED GROUP.—*

7 *(A) IN GENERAL.—Subparagraph (A) of*
 8 *section 51(d)(3) (relating to qualified veteran) is*
 9 *amended by striking “agency as being a member*
 10 *of a family” and all that follows and inserting*
 11 *“agency as—*

12 *“(i) being a member of a family receiv-*
 13 *ing assistance under a food stamp program*
 14 *under the Food Stamp Act of 1977 for at*
 15 *least a 3-month period ending during the*
 16 *12-month period ending on the hiring date,*
 17 *or*

18 *“(ii) entitled to compensation for a*
 19 *service-connected disability incurred after*
 20 *September 10, 2001.”.*

21 *(B) DEFINITIONS.—Paragraph (3) of sec-*
 22 *tion 51(d) is amended by adding at the end the*
 23 *following new subparagraph:*

24 *“(C) OTHER DEFINITIONS.—For purposes of*
 25 *subparagraph (A), the terms ‘compensation’ and*

1 ‘service-connected’ have the meanings given such
2 terms under section 101 of title 38, United
3 States Code.”.

4 (2) *INCREASE IN AMOUNT OF WAGES TAKEN INTO*
5 *ACCOUNT FOR DISABLED VETERANS.—Paragraph (3)*
6 *of section 51(b) is amended—*

7 (A) by inserting “(\$12,000 per year in the
8 case of any individual who is a qualified veteran
9 by reason of subsection (d)(3)(A)(ii))” before the
10 period at the end, and

11 (B) by striking “ONLY FIRST \$6,000 OF” in
12 the heading and inserting “LIMITATION ON”.

13 (e) *EFFECTIVE DATE.—The amendments made by this*
14 *section shall apply to individuals who begin work for the*
15 *employer after the date of the enactment of this Act, in tax-*
16 *able years ending after such date.*

17 **SEC. 205. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZA-**
18 **TIONS.**

19 (a) *EMPLOYMENT TAXES.—Chapter 25 (relating to*
20 *general provisions relating to employment taxes) is amend-*
21 *ed by adding at the end the following new section:*

22 **“SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-**
23 **ZATIONS.**

24 “(a) *GENERAL RULES.—For purposes of the taxes, and*
25 *other obligations, imposed by this subtitle—*

1 “(1) a certified professional employer organiza-
2 tion shall be treated as the employer (and no other
3 person shall be treated as the employer) of any work
4 site employee performing services for any customer of
5 such organization, but only with respect to remunera-
6 tion remitted by such organization to such work site
7 employee, and

8 “(2) exclusions, definitions, and other rules
9 which are based on the type of employer and which
10 would (but for paragraph (1)) apply shall apply with
11 respect to such taxes imposed on such remuneration.

12 “(b) *SUCCESSOR EMPLOYER STATUS.*—For purposes
13 of sections 3121(a)(1), 3231(e)(2)(C), and 3306(b)(1)—

14 “(1) a certified professional employer organiza-
15 tion entering into a service contract with a customer
16 with respect to a work site employee shall be treated
17 as a successor employer and the customer shall be
18 treated as a predecessor employer during the term of
19 such service contract, and

20 “(2) a customer whose service contract with a
21 certified professional employer organization is termi-
22 nated with respect to a work site employee shall be
23 treated as a successor employer and the certified pro-
24 fessional employer organization shall be treated as a
25 predecessor employer.

1 “(c) *LIABILITY OF CERTIFIED PROFESSIONAL EM-*
2 *PLOYER ORGANIZATION.*—*Solely for purposes of its liability*
3 *for the taxes, and other obligations, imposed by this*
4 *subtitle—*

5 “(1) *a certified professional employer organiza-*
6 *tion shall be treated as the employer of any indi-*
7 *vidual (other than a work site employee or a person*
8 *described in subsection (f)) who is performing services*
9 *covered by a contract meeting the requirements of sec-*
10 *tion 7705(e)(2), but only with respect to remunera-*
11 *tion remitted by such organization to such individual,*
12 *and*

13 “(2) *exclusions, definitions, and other rules*
14 *which are based on the type of employer and which*
15 *would (but for paragraph (1)) apply shall apply with*
16 *respect to such taxes imposed on such remuneration.*

17 “(d) *TREATMENT OF CREDITS.*—

18 “(1) *IN GENERAL.*—*For purposes of any credit*
19 *specified in paragraph (2)—*

20 “(A) *such credit with respect to a work site*
21 *employee performing services for the customer*
22 *applies to the customer, not the certified profes-*
23 *sional employer organization,*

1 “(B) the customer, and not the certified pro-
2 fessional employer organization, shall take into
3 account wages and employment taxes—

4 “(i) paid by the certified professional
5 employer organization with respect to the
6 work site employee, and

7 “(ii) for which the certified profes-
8 sional employer organization receives pay-
9 ment from the customer, and

10 “(C) the certified professional employer or-
11 ganization shall furnish the customer with any
12 information necessary for the customer to claim
13 such credit.

14 “(2) CREDITS SPECIFIED.—A credit is specified
15 in this paragraph if such credit is allowed under—

16 “(A) section 41 (credit for increasing re-
17 search activity),

18 “(B) section 45A (Indian employment cred-
19 it),

20 “(C) section 45B (credit for portion of em-
21 ployer social security taxes paid with respect to
22 employee cash tips),

23 “(D) section 45C (clinical testing expenses
24 for certain drugs for rare diseases or conditions),

25 “(E) section 51 (work opportunity credit),

1 “(F) section 51A (temporary incentives for
2 employing long-term family assistance recipi-
3 ents),

4 “(G) section 1396 (empowerment zone em-
5 ployment credit),

6 “(H) 1400(d) (DC Zone employment cred-
7 it),

8 “(I) Section 1400H (renewal community
9 employment credit), and

10 “(J) any other section as provided by the
11 Secretary.

12 “(e) *SPECIAL RULE FOR RELATED PARTY.*—This sec-
13 tion shall not apply in the case of a customer which bears
14 a relationship to a certified professional employer organiza-
15 tion described in section 267(b) or 707(b). For purposes of
16 the preceding sentence, such sections shall be applied by sub-
17 stituting ‘10 percent’ for ‘50 percent’.

18 “(f) *SPECIAL RULE FOR CERTAIN INDIVIDUALS.*—For
19 purposes of the taxes imposed under this subtitle, an indi-
20 vidual with net earnings from self-employment derived from
21 the customer’s trade or business is not a work site employee
22 with respect to remuneration paid by a certified profes-
23 sional employer organization.

1 “(g) *REGULATIONS.*—*The Secretary shall prescribe*
2 *such regulations as may be necessary or appropriate to*
3 *carry out the purposes of this section.*”.

4 (b) *CERTIFIED PROFESSIONAL EMPLOYER ORGANIZA-*
5 *TION DEFINED.*—*Chapter 79 (relating to definitions) is*
6 *amended by adding at the end the following new section:*

7 “**SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-**
8 **ZATIONS DEFINED.**”

9 “(a) *IN GENERAL.*—*For purposes of this title, the term*
10 *‘certified professional employer organization’ means a per-*
11 *son who has been certified by the Secretary for purposes*
12 *of section 3511 as meeting the requirements of subsection*
13 *(b).*”

14 “(b) *GENERAL REQUIREMENTS.*—*A person meets the*
15 *requirements of this subsection if such person—*

16 “(1) *demonstrates that such person (and any*
17 *owner, officer, and such other persons as may be spec-*
18 *ified in regulations) meets such requirements as the*
19 *Secretary shall establish with respect to tax status,*
20 *background, experience, business location, and annual*
21 *financial audits,*

22 “(2) *computes its taxable income using an ac-*
23 *crual method of accounting unless the Secretary ap-*
24 *proves another method,*

1 “(3) agrees that it will satisfy the bond and
2 independent financial review requirements of sub-
3 section (c) on an ongoing basis,

4 “(4) agrees that it will satisfy such reporting ob-
5 ligations as may be imposed by the Secretary,

6 “(5) agrees to verify on such periodic basis as the
7 Secretary may prescribe that it continues to meet the
8 requirements of this subsection, and

9 “(6) agrees to notify the Secretary in writing
10 within such time as the Secretary may prescribe of
11 any change that materially affects whether it con-
12 tinues to meet the requirements of this subsection.

13 “(c) *BOND AND INDEPENDENT FINANCIAL REVIEW RE-*
14 *QUIREMENTS.—*

15 “(1) *IN GENERAL.—*An organization meets the
16 requirements of this paragraph if such organization—

17 “(A) meets the bond requirements of para-
18 graph (2), and

19 “(B) meets the independent financial review
20 requirements of paragraph (3).

21 “(2) *BOND.—*

22 “(A) *IN GENERAL.—*A certified professional
23 employer organization meets the requirements of
24 this paragraph if the organization has posted a
25 bond for the payment of taxes under subtitle C

1 *(in a form acceptable to the Secretary) in an*
2 *amount at least equal to the amount specified in*
3 *subparagraph (B).*

4 “(B) *AMOUNT OF BOND.—For the period*
5 *April 1 of any calendar year through March 31*
6 *of the following calendar year, the amount of the*
7 *bond required is equal to the greater of—*

8 “(i) *5 percent of the organization’s li-*
9 *ability under section 3511 for taxes imposed*
10 *by subtitle C during the preceding calendar*
11 *year (but not to exceed \$1,000,000), or*

12 “(ii) *\$50,000.*

13 “(3) *INDEPENDENT FINANCIAL REVIEW REQUIRE-*
14 *MENTS.—A certified professional employer organiza-*
15 *tion meets the requirements of this paragraph if such*
16 *organization—*

17 “(A) *has, as of the most recent review date,*
18 *caused to be prepared and provided to the Sec-*
19 *retary (in such manner as the Secretary may*
20 *prescribe) an opinion of an independent certified*
21 *public accountant that the certified professional*
22 *employer organization’s financial statements are*
23 *presented fairly in accordance with generally ac-*
24 *cepted accounting principles, and*

1 “(B) provides, not later than the last day of
2 the second month beginning after the end of each
3 calendar quarter, to the Secretary from an inde-
4 pendent certified public accountant an assertion
5 regarding Federal employment tax payments
6 and an examination level attestation on such as-
7 sertion.

8 Such assertion shall state that the organization has
9 withheld and made deposits of all taxes imposed by
10 chapters 21, 22, and 24 of the Internal Revenue Code
11 in accordance with regulations imposed by the Sec-
12 retary for such calendar quarter and such examina-
13 tion level attestation shall state that such assertion is
14 fairly stated, in all material respects.

15 “(4) CONTROLLED GROUP RULES.—For purposes
16 of the requirements of paragraphs (2) and (3), all
17 professional employer organizations that are members
18 of a controlled group within the meaning of sections
19 414(b) and (c) shall be treated as a single organiza-
20 tion.

21 “(5) FAILURE TO FILE ASSERTION AND ATTESTA-
22 TION.—If the certified professional employer organi-
23 zation fails to file the assertion and attestation re-
24 quired by paragraph (3) with respect to any calendar
25 quarter, then the requirements of paragraph (3) with

1 *respect to such failure shall be treated as not satisfied*
2 *for the period beginning on the due date for such at-*
3 *testation.*

4 “(6) *REVIEW DATE.*—*For purposes of paragraph*
5 *(3)(A), the review date shall be 6 months after the*
6 *completion of the organization’s fiscal year.*

7 “(d) *SUSPENSION AND REVOCATION AUTHORITY.*—*The*
8 *Secretary may suspend or revoke a certification of any per-*
9 *son under subsection (b) for purposes of section 3511 if the*
10 *Secretary determines that such person is not satisfying the*
11 *representations or requirements of subsections (b) or (c), or*
12 *fails to satisfy applicable accounting, reporting, payment,*
13 *or deposit requirements.*

14 “(e) *WORK SITE EMPLOYEE.*—*For purposes of this*
15 *title—*

16 “(1) *IN GENERAL.*—*The term ‘work site em-*
17 *ployee’ means, with respect to a certified professional*
18 *employer organization, an individual who—*

19 “(A) *performs services for a customer pur-*
20 *suant to a contract which is between such cus-*
21 *tomers and the certified professional employer or-*
22 *ganization and which meets the requirements of*
23 *paragraph (2), and*

24 “(B) *performs services at a work site meet-*
25 *ing the requirements of paragraph (3).*

1 “(2) *SERVICE CONTRACT REQUIREMENTS.*—A
2 *contract meets the requirements of this paragraph*
3 *with respect to an individual performing services for*
4 *a customer if such contract is in writing and provides*
5 *that the certified professional employer organization*
6 *shall—*

7 “(A) *assume responsibility for payment of*
8 *wages to such individual, without regard to the*
9 *receipt or adequacy of payment from the cus-*
10 *tomers for such services,*

11 “(B) *assume responsibility for reporting,*
12 *withholding, and paying any applicable taxes*
13 *under subtitle C, with respect to such individ-*
14 *ual’s wages, without regard to the receipt or ade-*
15 *quacy of payment from the customer for such*
16 *services,*

17 “(C) *assume responsibility for any employee*
18 *benefits which the service contract may require*
19 *the organization to provide, without regard to*
20 *the receipt or adequacy of payment from the cus-*
21 *tomers for such services,*

22 “(D) *assume responsibility for hiring, fir-*
23 *ing, and recruiting workers in addition to the*
24 *customer’s responsibility for hiring, firing and*
25 *recruiting workers,*

1 “(E) maintain employee records relating to
2 such individual, and

3 “(F) agree to be treated as a certified pro-
4 fessional employer organization for purposes of
5 section 3511 with respect to such individual.

6 “(3) WORK SITE COVERAGE REQUIREMENT.—The
7 requirements of this paragraph are met with respect
8 to an individual if at least 85 percent of the individ-
9 uals performing services for the customer at the work
10 site where such individual performs services are sub-
11 ject to 1 or more contracts with the certified profes-
12 sional employer organization which meet the require-
13 ments of paragraph (2) (but not taking into account
14 those individuals who are excluded employees within
15 the meaning of section 414(q)(5)).

16 “(f) DETERMINATION OF EMPLOYMENT STATUS.—Ex-
17 cept to the extent necessary for purposes of section 3511,
18 nothing in this section shall be construed to affect the deter-
19 mination of who is an employee or employer for purposes
20 of this title.

21 “(g) REGULATIONS.—The Secretary shall prescribe
22 such regulations as may be necessary or appropriate to
23 carry out the purposes of this section.”.

24 (c) CONFORMING AMENDMENTS.—

1 (1) *Section 3302 is amended by adding at the*
2 *end the following new subsection:*

3 “(h) *TREATMENT OF CERTIFIED PROFESSIONAL EM-*
4 *PLOYER ORGANIZATIONS.—If a certified professional em-*
5 *ployer organization (as defined in section 7705), or a cus-*
6 *tommer of such organization, makes a contribution to the*
7 *State’s unemployment fund with respect to a work site em-*
8 *ployee, such organization shall be eligible for the credits*
9 *available under this section with respect to such contribu-*
10 *tion.”.*

11 (2) *Section 3303(a) is amended—*

12 (A) *by striking the period at the end of*
13 *paragraph (3) and inserting “; and” and by in-*
14 *serting after paragraph (3) the following new*
15 *paragraph:*

16 “(4) *if the taxpayer is a certified professional*
17 *employer organization (as defined in section 7705)*
18 *that is treated as the employer under section 3511,*
19 *such certified professional employer organization is*
20 *permitted to collect and remit, in accordance with*
21 *paragraphs (1), (2), and (3), contributions during the*
22 *taxable year to the State unemployment fund with re-*
23 *spect to a work site employee.”, and*

24 (B) *in the last sentence—*

1 (i) by striking “paragraphs (1), (2),
2 and (3)” and inserting “paragraphs (1),
3 (2), (3), and (4)”, and

4 (ii) by striking “paragraph (1), (2), or
5 (3)” and inserting “paragraph (1), (2), (3),
6 or (4)”.

7 (3) Section 6053(c) (relating to reporting of tips)
8 is amended by adding at the end the following new
9 paragraph:

10 “(8) *CERTIFIED PROFESSIONAL EMPLOYER OR-*
11 *GANIZATIONS.—For purposes of any report required*
12 *by this subsection, in the case of a certified profes-*
13 *sional employer organization that is treated under*
14 *section 3511 as the employer of a work site employee,*
15 *the customer with respect to whom a work site em-*
16 *ployee performs services shall be the employer for pur-*
17 *poses of reporting under this section and the certified*
18 *professional employer organization shall furnish to*
19 *the customer any information necessary to complete*
20 *such reporting no later than such time as the Sec-*
21 *retary shall prescribe.”.*

22 (d) *CLERICAL AMENDMENTS.—*

23 (1) *The table of sections for chapter 25 is amend-*
24 *ed by adding at the end the following new item:*

“Sec. 3511. *Certified professional employer organizations.*”.

1 (2) *The table of sections for chapter 79 is amend-*
2 *ed by inserting after the item relating to section 7704*
3 *the following new item:*

“Sec. 7705. *Certified professional employer organizations defined.*”.

4 (e) *REPORTING REQUIREMENTS AND OBLIGATIONS.—*
5 *The Secretary of the Treasury shall develop such reporting*
6 *and recordkeeping rules, regulations, and procedures as the*
7 *Secretary determines necessary or appropriate to ensure*
8 *compliance with the amendments made by this section with*
9 *respect to entities applying for certification as certified pro-*
10 *fessional employer organizations or entities that have been*
11 *so certified. Such rules shall be designed in a manner which*
12 *streamlines, to the extent possible, the application of re-*
13 *quirements of such amendments, the exchange of informa-*
14 *tion between a certified professional employer organization*
15 *and its customers, and the reporting and recordkeeping ob-*
16 *ligations of the certified professional employer organization.*

17 (f) *USER FEES.—*Subsection (b) of section 7528 (relat-
18 *ing to Internal Revenue Service user fees) is amended by*
19 *adding at the end the following new paragraph:*

20 “(4) *CERTIFIED PROFESSIONAL EMPLOYER OR-*
21 *GANIZATIONS.—*The fee charged under the program in
22 *connection with the certification by the Secretary of*
23 *a professional employer organization under section*
24 *7705 shall not exceed \$500.”.*

25 (g) *EFFECTIVE DATES.—*

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply with respect to wages for serv-*
3 *ices performed on or after January 1 of the first cal-*
4 *endar year beginning more than 12 months after the*
5 *date of the enactment of this Act.*

6 (2) *CERTIFICATION PROGRAM.*—*The Secretary of*
7 *the Treasury shall establish the certification program*
8 *described in section 7705(b) of the Internal Revenue*
9 *Code of 1986, as added by subsection (b), not later*
10 *than 6 months before the effective date determined*
11 *under paragraph (1).*

12 (h) *NO INFERENCE.*—*Nothing contained in this section*
13 *or the amendments made by this section shall be construed*
14 *to create any inference with respect to the determination*
15 *of who is an employee or employer—*

16 (1) *for Federal tax purposes (other than the pur-*
17 *poses set forth in the amendments made by this sec-*
18 *tion), or*

19 (2) *for purposes of any other provision of law.*

20 **PART II—SUBCHAPTER S PROVISIONS**

21 **SEC. 211. CAPITAL GAIN OF S CORPORATION NOT TREATED**

22 **AS PASSIVE INVESTMENT INCOME.**

23 (a) *IN GENERAL.*—*Section 1362(d)(3) is amended by*
24 *striking subparagraphs (B), (C), (D), (E), and (F) and in-*
25 *serting the following new subparagraph:*

1 “(B) *PASSIVE INVESTMENT INCOME DE-*
2 *FINED.*—

3 “(i) *IN GENERAL.*—*Except as otherwise*
4 *provided in this subparagraph, the term*
5 *‘passive investment income’ means gross re-*
6 *ceipts derived from royalties, rents, divi-*
7 *dends, interest, and annuities.*

8 “(ii) *EXCEPTION FOR INTEREST ON*
9 *NOTES FROM SALES OF INVENTORY.*—*The*
10 *term ‘passive investment income’ shall not*
11 *include interest on any obligation acquired*
12 *in the ordinary course of the corporation’s*
13 *trade or business from its sale of property*
14 *described in section 1221(a)(1).*

15 “(iii) *TREATMENT OF CERTAIN LEND-*
16 *ING OR FINANCE COMPANIES.*—*If the S cor-*
17 *poration meets the requirements of section*
18 *542(c)(6) for the taxable year, the term*
19 *‘passive investment income’ shall not in-*
20 *clude gross receipts for the taxable year*
21 *which are derived directly from the active*
22 *and regular conduct of a lending or finance*
23 *business (as defined in section 542(d)(1)).*

24 “(iv) *TREATMENT OF CERTAIN DIVI-*
25 *DENDS.*—*If an S corporation holds stock in*

1 *a C corporation meeting the requirements of*
2 *section 1504(a)(2), the term ‘passive invest-*
3 *ment income’ shall not include dividends*
4 *from such C corporation to the extent such*
5 *dividends are attributable to the earnings*
6 *and profits of such C corporation derived*
7 *from the active conduct of a trade or busi-*
8 *ness.*

9 “(v) *EXCEPTION FOR BANKS, ETC.—In*
10 *the case of a bank (as defined in section*
11 *581) or a depository institution holding*
12 *company (as defined in section 3(w)(1) of*
13 *the Federal Deposit Insurance Act (12*
14 *U.S.C. 1813(w)(1)), the term ‘passive in-*
15 *vestment income’ shall not include—*

16 “(I) *interest income earned by*
17 *such bank or company, or*

18 “(II) *dividends on assets required*
19 *to be held by such bank or company,*
20 *including stock in the Federal Reserve*
21 *Bank, the Federal Home Loan Bank,*
22 *or the Federal Agricultural Mortgage*
23 *Bank or participation certificates*
24 *issued by a Federal Intermediate Cred-*
25 *it Bank.”.*

1 **(b) CONFORMING AMENDMENT.**—Clause (i) of section
2 1042(c)(4)(A) is amended by striking “section
3 1362(d)(3)(C)” and inserting “section 1362(d)(3)(B)”.

4 **(c) EFFECTIVE DATE.**—The amendments made by this
5 section shall apply to taxable years beginning after the date
6 of the enactment of this Act.

7 **SEC. 212. TREATMENT OF BANK DIRECTOR SHARES.**

8 **(a) IN GENERAL.**—Section 1361 (defining S corpora-
9 tion) is amended by adding at the end the following new
10 subsection:

11 **“(f) RESTRICTED BANK DIRECTOR STOCK.**—

12 **“(1) IN GENERAL.**—Restricted bank director
13 stock shall not be taken into account as outstanding
14 stock of the S corporation in applying this subchapter
15 (other than section 1368(f)).

16 **“(2) RESTRICTED BANK DIRECTOR STOCK.**—For
17 purposes of this subsection, the term ‘restricted bank
18 director stock’ means stock in a bank (as defined in
19 section 581) or a depository institution holding com-
20 pany (as defined in section 3(w)(1) of the Federal De-
21 posit Insurance Act (12 U.S.C. 1813(w)(1)), if such
22 stock—

23 **“(A) is required to be held by an individual**
24 **under applicable Federal or State law in order**

1 to permit such individual to serve as a director,
2 and

3 “(B) is subject to an agreement with such
4 bank or company (or a corporation which con-
5 trols (within the meaning of section 368(c)) such
6 bank or company) pursuant to which the holder
7 is required to sell back such stock (at the same
8 price as the individual acquired such stock) upon
9 ceasing to hold the office of director.

10 “(3) *CROSS REFERENCE.*—

 “*For treatment of certain distributions with respect to restricted bank director
 stock, see section 1368(f).*”.

11 (b) *DISTRIBUTIONS.*—Section 1368 (relating to dis-
12 tributions) is amended by adding at the end the following
13 new subsection:

14 “(f) *RESTRICTED BANK DIRECTOR STOCK.*—If a di-
15 rector receives a distribution (not in part or full payment
16 in exchange for stock) from an S corporation with respect
17 to any restricted bank director stock (as defined in section
18 1361(f)), the amount of such distribution—

19 “(1) shall be includible in gross income of the di-
20 rector, and

21 “(2) shall be deductible by the corporation for the
22 taxable year of such corporation in which or with
23 which ends the taxable year in which such amount in
24 included in the gross income of the director.”.

1 (c) *EFFECTIVE DATES.*—

2 (1) *IN GENERAL.*—*The amendments made by*
 3 *this section shall apply to taxable years beginning*
 4 *after December 31, 2006.*

5 (2) *SPECIAL RULE FOR TREATMENT AS SECOND*
 6 *CLASS OF STOCK.*—*In the case of any taxable year be-*
 7 *ginning after December 31, 1996, restricted bank di-*
 8 *rector stock (as defined in section 1361(f) of the Inter-*
 9 *nal Revenue Code of 1986, as added by this section)*
 10 *shall not be taken into account in determining wheth-*
 11 *er an S corporation has more than 1 class of stock.*

12 **SEC. 213. SPECIAL RULE FOR BANK REQUIRED TO CHANGE**
 13 **FROM THE RESERVE METHOD OF ACCOUNT-**
 14 **ING ON BECOMING S CORPORATION.**

15 (a) *IN GENERAL.*—*Section 1361, as amended by this*
 16 *Act, is amended by adding at the end the following new*
 17 *subsection:*

18 “(g) *SPECIAL RULE FOR BANK REQUIRED TO CHANGE*
 19 *FROM THE RESERVE METHOD OF ACCOUNTING ON BECOM-*
 20 *ING S CORPORATION.*—*In the case of a bank which changes*
 21 *from the reserve method of accounting for bad debts de-*
 22 *scribed in section 585 or 593 for its first taxable year for*
 23 *which an election under section 1362(a) is in effect, the*
 24 *bank may elect to take into account any adjustments under*

1 *section 481 by reason of such change for the taxable year*
 2 *immediately preceding such first taxable year.”.*

3 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 4 *section shall apply to taxable years beginning after Decem-*
 5 *ber 31, 2006.*

6 **SEC. 214. TREATMENT OF THE SALE OF INTEREST IN A**
 7 **QUALIFIED SUBCHAPTER S SUBSIDIARY.**

8 (a) *IN GENERAL.*—*Subparagraph (C) of section*
 9 *1361(b)(3) (relating to treatment of terminations of quali-*
 10 *fied subchapter S subsidiary status) is amended—*

11 (1) *by striking “For purposes of this title,” and*
 12 *inserting the following:*

13 “(i) *IN GENERAL.*—*For purposes of*
 14 *this title,” and*

15 (2) *by inserting at the end the following new*
 16 *clause:*

17 “(ii) *TERMINATION BY REASON OF*
 18 *SALE OF STOCK.*—*If the failure to meet the*
 19 *requirements of subparagraph (B) is by rea-*
 20 *son of the sale of stock of a corporation*
 21 *which is a qualified subchapter S sub-*
 22 *subsidiary, the sale of such stock shall be treat-*
 23 *ed as if—*

24 “(I) *the sale were a sale of an un-*
 25 *divided interest in the assets of such*

1 corporation (based on the percentage of
2 the corporation's stock sold), and

3 “(II) the sale were followed by an
4 acquisition by such corporation of all
5 of its assets (and the assumption by
6 such corporation of all of its liabilities)
7 in a transaction to which section 351
8 applies.”.

9 (b) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to taxable years beginning after Decem-
11 ber 31, 2006 .

12 **SEC. 215. ELIMINATION OF ALL EARNINGS AND PROFITS AT-**
13 **TRIBUTABLE TO PRE-1983 YEARS FOR CER-**
14 **TAIN CORPORATIONS.**

15 *In the case of a corporation which is—*

16 (1) *described in section 1311(a)(1) of the Small*
17 *Business Job Protection Act of 1996, and*

18 (2) *not described in section 1311(a)(2) of such*
19 *Act,*

20 *the amount of such corporation's accumulated earnings and*
21 *profits (for the first taxable year beginning after the date*
22 *of the enactment of this Act) shall be reduced by an amount*
23 *equal to the portion (if any) of such accumulated earnings*
24 *and profits which were accumulated in any taxable year*
25 *beginning before January 1, 1983, for which such corpora-*

1 *tion was an electing small business corporation under sub-*
 2 *chapter S of the Internal Revenue Code of 1986.*

3 **SEC. 216. EXPANSION OF QUALIFYING BENEFICIARIES OF**
 4 **AN ELECTING SMALL BUSINESS TRUST.**

5 *(a) NO LOOK THROUGH FOR ELIGIBILITY PUR-*
 6 *POSES.—Clause (v) of section 1361(c)(2)(B) is amended by*
 7 *adding at the end the following new sentence: “This clause*
 8 *shall not apply for purposes of subsection (b)(1)(C).”.*

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

12 ***Subtitle B—Revenue Provisions***

13 **SEC. 221. MODIFICATION OF EFFECTIVE DATE OF LEASING**
 14 **PROVISIONS OF THE AMERICAN JOBS CRE-**
 15 **ATION ACT OF 2004.**

16 *(a) LEASES TO FOREIGN ENTITIES.—Section 849(b)*
 17 *of the American Jobs Creation Act of 2004 is amended by*
 18 *adding at the end the following new paragraph:*

19 *“(5) LEASES TO FOREIGN ENTITIES.—In the case*
 20 *of tax-exempt use property leased to a tax-exempt en-*
 21 *tity which is a foreign person or entity, the amend-*
 22 *ments made by this part shall apply to taxable years*
 23 *beginning after December 31, 2006, with respect to*
 24 *leases entered into on or before March 12, 2004.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall take effect as if included in the enactment of*
 3 *the American Jobs Creation Act of 2004.*

4 **SEC. 222. APPLICATION OF RULES TREATING INVERTED**
 5 **CORPORATIONS AS DOMESTIC CORPORA-**
 6 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**
 7 **RING AFTER MARCH 20, 2002.**

8 (a) *IN GENERAL.*—*Section 7874(b) (relating to in-*
 9 *verted corporations treated as domestic corporations) is*
 10 *amended to read as follows:*

11 “(b) *INVERTED CORPORATIONS TREATED AS DOMES-*
 12 *TIC CORPORATIONS.*—

13 “(1) *IN GENERAL.*—*Notwithstanding section*
 14 *7701(a)(4), a foreign corporation shall be treated for*
 15 *purposes of this title as a domestic corporation if such*
 16 *corporation would be a surrogate foreign corporation*
 17 *if subsection (a)(2) were applied by substituting ‘80*
 18 *percent’ for ‘60 percent’.*

19 “(2) *SPECIAL RULE FOR CERTAIN TRANSACTIONS*
 20 *OCCURRING AFTER MARCH 20, 2002.*—

21 “(A) *IN GENERAL.*—*If—*

22 “(i) *paragraph (1) does not apply to a*
 23 *foreign corporation, but*

24 “(ii) *paragraph (1) would apply to*
 25 *such corporation if, in addition to the sub-*

1 stitution under paragraph (1), subsection
2 (a)(2) were applied by substituting ‘March
3 20, 2002’ for ‘March 4, 2003’ each place it
4 appears,

5 then paragraph (1) shall apply to such corpora-
6 tion but only with respect to taxable years of
7 such corporation beginning after December 31,
8 2006.

9 “(B) SPECIAL RULES.—Subject to such
10 rules as the Secretary may prescribe, in the case
11 of a corporation to which paragraph (1) applies
12 by reason of this paragraph—

13 “(i) the corporation shall be treated, as
14 of the close of its last taxable year beginning
15 before January 1, 2007, as having trans-
16 ferred all of its assets, liabilities, and earn-
17 ings and profits to a domestic corporation
18 in a transaction with respect to which no
19 tax is imposed under this title,

20 “(ii) the bases of the assets transferred
21 in the transaction to the domestic corpora-
22 tion shall be the same as the bases of the as-
23 sets in the hands of the foreign corporation,
24 subject to any adjustments under this title
25 for built-in losses,

1 “(iii) the basis of the stock of any
2 shareholder in the domestic corporation
3 shall be the same as the basis of the stock
4 of the shareholder in the foreign corporation
5 for which it is treated as exchanged, and

6 “(iv) the transfer of any earnings and
7 profits by reason of clause (i) shall be dis-
8 regarded in determining any deemed divi-
9 dend or foreign tax creditable to the domes-
10 tic corporation with respect to such trans-
11 fer.

12 “(C) *REGULATIONS.*—The Secretary may
13 prescribe such regulations as may be necessary
14 or appropriate to carry out this paragraph, in-
15 cluding regulations to prevent the avoidance of
16 the purposes of this paragraph.”.

17 (b) *EFFECTIVE DATE.*—The amendment made by this
18 section shall apply to taxable years beginning after Decem-
19 ber 31, 2006.

20 **SEC. 223. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

21 (a) *DISALLOWANCE OF DEDUCTION.*—

22 (1) *IN GENERAL.*—Section 162(g) (relating to
23 treble damage payments under the antitrust laws) is
24 amended—

1 (A) by redesignating paragraphs (1) and
 2 (2) as subparagraphs (A) and (B), respectively,
 3 (B) by striking “If” and inserting:

4 “(1) *TREBLE DAMAGES.—If*”, and

5 (C) by adding at the end the following new
 6 paragraph:

7 “(2) *PUNITIVE DAMAGES.—No deduction shall be*
 8 *allowed under this chapter for any amount paid or*
 9 *incurred for punitive damages in connection with*
 10 *any judgment in, or settlement of, any action. This*
 11 *paragraph shall not apply to punitive damages de-*
 12 *scribed in section 104(c).”.*

13 (2) *CONFORMING AMENDMENT.—The heading for*
 14 *section 162(g) is amended by inserting “OR PUNITIVE*
 15 *DAMAGES” after “LAWS”.*

16 (b) *INCLUSION IN INCOME OF PUNITIVE DAMAGES*
 17 *PAID BY INSURER OR OTHERWISE.—*

18 (1) *IN GENERAL.—Part II of subchapter B of*
 19 *chapter 1 (relating to items specifically included in*
 20 *gross income) is amended by adding at the end the*
 21 *following new section:*

22 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
 23 **ANCE OR OTHERWISE.**

24 “Gross income shall include any amount paid to or
 25 on behalf of a taxpayer as insurance or otherwise by reason

1 *of the taxpayer's liability (or agreement) to pay punitive*
2 *damages."*

3 (2) *REPORTING REQUIREMENTS.—Section 6041*
4 *(relating to information at source) is amended by*
5 *adding at the end the following new subsection:*

6 “(h) *SECTION TO APPLY TO PUNITIVE DAMAGES COM-*
7 *PENSATION.—This section shall apply to payments by a*
8 *person to or on behalf of another person as insurance or*
9 *otherwise by reason of the other person's liability (or agree-*
10 *ment) to pay punitive damages."*

11 (3) *CONFORMING AMENDMENT.—The table of sec-*
12 *tions for part II of subchapter B of chapter 1 is*
13 *amended by adding at the end the following new item:*

“*Sec. 91. Punitive damages compensated by insurance or otherwise.*”

14 (c) *EFFECTIVE DATE.—The amendments made by this*
15 *section shall apply to damages paid or incurred on or after*
16 *the date of the enactment of this Act.*

17 **SEC. 224. DENIAL OF DEDUCTION FOR CERTAIN FINES, PEN-**
18 **ALTIES, AND OTHER AMOUNTS.**

19 (a) *IN GENERAL.—Subsection (f) of section 162 (relat-*
20 *ing to trade or business expenses) is amended to read as*
21 *follows:*

22 “(f) *FINES, PENALTIES, AND OTHER AMOUNTS.—*

23 “(1) *IN GENERAL.—Except as provided in para-*
24 *graph (2), no deduction otherwise allowable shall be*
25 *allowed under this chapter for any amount paid or*

1 *incurred (whether by suit, agreement, or otherwise)*
2 *to, or at the direction of, a government or entity de-*
3 *scribed in paragraph (4) in relation to the violation*
4 *of any law or the investigation or inquiry by such*
5 *government or entity into the potential violation of*
6 *any law.*

7 “(2) *EXCEPTION FOR AMOUNTS CONSTITUTING*
8 *RESTITUTION OR PAID TO COME INTO COMPLIANCE*
9 *WITH LAW.—Paragraph (1) shall not apply to any*
10 *amount which—*

11 “(A) *the taxpayer establishes—*

12 “(i) *constitutes restitution (including*
13 *remediation of property) for damage or*
14 *harm caused by or which may be caused by*
15 *the violation of any law or the potential*
16 *violation of any law, or*

17 “(ii) *is paid to come into compliance*
18 *with any law which was violated or in-*
19 *volved in the investigation or inquiry, and*

20 “(B) *is identified as restitution or as an*
21 *amount paid to come into compliance with the*
22 *law, as the case may be, in the court order or*
23 *settlement agreement.*

24 *A taxpayer shall not meet the requirements of sub-*
25 *paragraph (A) solely by reason an identification*

1 *under subparagraph (B). This paragraph shall not*
2 *apply to any amount paid or incurred as reimburse-*
3 *ment to the government or entity for the costs of any*
4 *investigation or litigation.*

5 “(3) *EXCEPTION FOR AMOUNTS PAID OR IN-*
6 *CURRED AS THE RESULT OF CERTAIN COURT OR-*
7 *DERS.—Paragraph (1) shall not apply to any*
8 *amount paid or incurred by order of a court in a suit*
9 *in which no government or entity described in para-*
10 *graph (4) is a party.*

11 “(4) *CERTAIN NONGOVERNMENTAL REGULATORY*
12 *ENTITIES.—An entity is described in this paragraph*
13 *if it is—*

14 “(A) *a nongovernmental entity which exer-*
15 *cises self-regulatory powers (including imposing*
16 *sanctions) in connection with a qualified board*
17 *or exchange (as defined in section 1256(g)(7)), or*

18 “(B) *to the extent provided in regulations,*
19 *a nongovernmental entity which exercises self-*
20 *regulatory powers (including imposing sanc-*
21 *tions) as part of performing an essential govern-*
22 *mental function.*

23 “(5) *EXCEPTION FOR TAXES DUE.—Paragraph*
24 *(1) shall not apply to any amount paid or incurred*
25 *as taxes due.”*

1 **(b) REPORTING OF DEDUCTIBLE AMOUNTS.—**

2 **(1) IN GENERAL.—***Subpart B of part III of sub-*
 3 *chapter A of chapter 61 is amended by inserting after*
 4 *section 6050V the following new section:*

5 **“SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN**
 6 **FINES, PENALTIES, AND OTHER AMOUNTS.**

7 **“(a) REQUIREMENT OF REPORTING.—**

8 **(1) IN GENERAL.—***The appropriate official of*
 9 *any government or entity which is described in sec-*
 10 *tion 162(f)(4) which is involved in a suit or agree-*
 11 *ment described in paragraph (2) shall make a return*
 12 *in such form as determined by the Secretary setting*
 13 *forth—*

14 **(A)** *the amount required to be paid as a*
 15 *result of the suit or agreement to which para-*
 16 *graph (1) of section 162(f) applies,*

17 **(B)** *any amount required to be paid as a*
 18 *result of the suit or agreement which constitutes*
 19 *restitution or remediation of property, and*

20 **(C)** *any amount required to be paid as a*
 21 *result of the suit or agreement for the purpose of*
 22 *coming into compliance with any law which was*
 23 *violated or involved in the investigation or in-*
 24 *quiry.*

25 **“(2) SUIT OR AGREEMENT DESCRIBED.—**

1 “(A) *IN GENERAL.*—A suit or agreement is
2 described in this paragraph if—

3 “(i) it is—

4 “(I) a suit with respect to a viola-
5 tion of any law over which the govern-
6 ment or entity has authority and with
7 respect to which there has been a court
8 order, or

9 “(II) an agreement which is en-
10 tered into with respect to a violation of
11 any law over which the government or
12 entity has authority, or with respect to
13 an investigation or inquiry by the gov-
14 ernment or entity into the potential
15 violation of any law over which such
16 government or entity has authority,
17 and

18 “(ii) the aggregate amount involved in
19 all court orders and agreements with respect
20 to the violation, investigation, or inquiry is
21 \$600 or more.

22 “(B) *ADJUSTMENT OF REPORTING THRESH-*
23 *OLD.*—The Secretary may adjust the \$600
24 amount in subparagraph (A)(ii) as necessary in

1 *order to ensure the efficient administration of the*
2 *internal revenue laws.*

3 “(3) *TIME OF FILING.*—*The return required*
4 *under this subsection shall be filed not later than—*

5 “(A) *30 days after the date on which a*
6 *court order is issued with respect to the suit or*
7 *the date the agreement is entered into, as the*
8 *case may be, or*

9 “(B) *the date specified Secretary.*

10 “(b) *STATEMENTS TO BE FURNISHED TO INDIVIDUALS*
11 *INVOLVED IN THE SETTLEMENT.*—*Every person required to*
12 *make a return under subsection (a) shall furnish to each*
13 *person who is a party to the suit or agreement a written*
14 *statement showing—*

15 “(1) *the name of the government or entity, and*

16 “(2) *the information supplied to the Secretary*
17 *under subsection (a)(1).*

18 *The written statement required under the preceding sen-*
19 *tence shall be furnished to the person at the same time the*
20 *government or entity provides the Secretary with the infor-*
21 *mation required under subsection (a).*

22 “(c) *APPROPRIATE OFFICIAL DEFINED.*—*For purposes*
23 *of this section, the term ‘appropriate official’ means the offi-*
24 *cer or employee having control of the suit, investigation,*

1 *or inquiry or the person appropriately designated for pur-*
 2 *poses of this section.”.*

3 (2) *CONFORMING AMENDMENT.*—*The table of sec-*
 4 *tions for subpart B of part III of subchapter A of*
 5 *chapter 61 is amended by inserting after the item re-*
 6 *lating to section 6050V the following new item:*

“Sec. 6050W. Information with respect to certain fines, penalties, and other amounts.”.

7 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 8 *section shall apply to amounts paid or incurred on or after*
 9 *the date of the enactment of this Act, except that such*
 10 *amendments shall not apply to amounts paid or incurred*
 11 *under any binding order or agreement entered into before*
 12 *such date. Such exception shall not apply to an order or*
 13 *agreement requiring court approval unless the approval*
 14 *was obtained before such date.*

15 **SEC. 225. REVISION OF TAX RULES ON EXPATRIATION OF**
 16 **INDIVIDUALS.**

17 (a) *IN GENERAL.*—*Subpart A of part II of subchapter*
 18 *N of chapter 1 is amended by inserting after section 877*
 19 *the following new section:*

20 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

21 *“(a) GENERAL RULES.*—*For purposes of this*
 22 *subtitle—*

23 *“(1) MARK TO MARKET.*—*Except as provided in*
 24 *subsections (d) and (f), all property of a covered expa-*

1 *triate to whom this section applies shall be treated as*
2 *sold on the day before the expatriation date for its*
3 *fair market value.*

4 “(2) *RECOGNITION OF GAIN OR LOSS.—In the*
5 *case of any sale under paragraph (1)—*

6 “(A) *notwithstanding any other provision of*
7 *this title, any gain arising from such sale shall*
8 *be taken into account for the taxable year of the*
9 *sale, and*

10 “(B) *any loss arising from such sale shall*
11 *be taken into account for the taxable year of the*
12 *sale to the extent otherwise provided by this title,*
13 *except that section 1091 shall not apply to any*
14 *such loss.*

15 *Proper adjustment shall be made in the amount of*
16 *any gain or loss subsequently realized for gain or loss*
17 *taken into account under the preceding sentence.*

18 “(3) *EXCLUSION FOR CERTAIN GAIN.—*

19 “(A) *IN GENERAL.—The amount which, but*
20 *for this paragraph, would be includible in the*
21 *gross income of any individual by reason of this*
22 *section shall be reduced (but not below zero) by*
23 *\$600,000. For purposes of this paragraph, allo-*
24 *cable expatriation gain taken into account under*
25 *subsection (f)(2) shall be treated in the same*

1 *manner as an amount required to be includible*
2 *in gross income.*

3 “(B) *COST-OF-LIVING ADJUSTMENT.*—

4 “(i) *IN GENERAL.*—*In the case of an*
5 *expatriation date occurring in any calendar*
6 *year after 2007, the \$600,000 amount under*
7 *subparagraph (A) shall be increased by an*
8 *amount equal to—*

9 “(I) *such dollar amount, multi-*
10 *plied by*

11 “(II) *the cost-of-living adjustment*
12 *determined under section 1(f)(3) for*
13 *such calendar year, determined by sub-*
14 *stituting ‘calendar year 2006’ for ‘cal-*
15 *endar year 1992’ in subparagraph (B)*
16 *thereof.*

17 “(ii) *ROUNDING RULES.*—*If any*
18 *amount after adjustment under clause (i) is*
19 *not a multiple of \$1,000, such amount shall*
20 *be rounded to the next lower multiple of*
21 *\$1,000.*

22 “(4) *ELECTION TO CONTINUE TO BE TAXED AS*
23 *UNITED STATES CITIZEN.*—

24 “(A) *IN GENERAL.*—*If a covered expatriate*
25 *elects the application of this paragraph—*

1 “(i) *this section (other than this para-*
2 *graph and subsection (i)) shall not apply to*
3 *the expatriate, but*

4 “(ii) *in the case of property to which*
5 *this section would apply but for such elec-*
6 *tion, the expatriate shall be subject to tax*
7 *under this title in the same manner as if*
8 *the individual were a United States citizen.*

9 “(B) *REQUIREMENTS.—Subparagraph (A)*
10 *shall not apply to an individual unless the*
11 *individual—*

12 “(i) *provides security for payment of*
13 *tax in such form and manner, and in such*
14 *amount, as the Secretary may require,*

15 “(ii) *consents to the waiver of any*
16 *right of the individual under any treaty of*
17 *the United States which would preclude as-*
18 *essment or collection of any tax which may*
19 *be imposed by reason of this paragraph,*
20 *and*

21 “(iii) *complies with such other require-*
22 *ments as the Secretary may prescribe.*

23 “(C) *ELECTION.—An election under sub-*
24 *paragraph (A) shall apply to all property to*
25 *which this section would apply but for the elec-*

1 *tion and, once made, shall be irrevocable. Such*
2 *election shall also apply to property the basis of*
3 *which is determined in whole or in part by ref-*
4 *erence to the property with respect to which the*
5 *election was made.*

6 “(b) *ELECTION TO DEFER TAX.—*

7 “(1) *IN GENERAL.—If the taxpayer elects the ap-*
8 *plication of this subsection with respect to any prop-*
9 *erty treated as sold by reason of subsection (a), the*
10 *payment of the additional tax attributable to such*
11 *property shall be postponed until the due date of the*
12 *return for the taxable year in which such property is*
13 *disposed of (or, in the case of property disposed of in*
14 *a transaction in which gain is not recognized in*
15 *whole or in part, until such other date as the Sec-*
16 *retary may prescribe).*

17 “(2) *DETERMINATION OF TAX WITH RESPECT TO*
18 *PROPERTY.—For purposes of paragraph (1), the addi-*
19 *tional tax attributable to any property is an amount*
20 *which bears the same ratio to the additional tax im-*
21 *posed by this chapter for the taxable year solely by*
22 *reason of subsection (a) as the gain taken into ac-*
23 *count under subsection (a) with respect to such prop-*
24 *erty bears to the total gain taken into account under*

1 *subsection (a) with respect to all property to which*
2 *subsection (a) applies.*

3 “(3) *TERMINATION OF POSTPONEMENT.—No tax*
4 *may be postponed under this subsection later than the*
5 *due date for the return of tax imposed by this chapter*
6 *for the taxable year which includes the date of death*
7 *of the expatriate (or, if earlier, the time that the secu-*
8 *rity provided with respect to the property fails to*
9 *meet the requirements of paragraph (4), unless the*
10 *taxpayer corrects such failure within the time speci-*
11 *fied by the Secretary).*

12 “(4) *SECURITY.—*

13 “(A) *IN GENERAL.—No election may be*
14 *made under paragraph (1) with respect to any*
15 *property unless adequate security is provided to*
16 *the Secretary with respect to such property.*

17 “(B) *ADEQUATE SECURITY.—For purposes*
18 *of subparagraph (A), security with respect to*
19 *any property shall be treated as adequate secu-*
20 *rity if—*

21 “(i) *it is a bond in an amount equal*
22 *to the deferred tax amount under paragraph*
23 *(2) for the property, or*

1 “(ii) the taxpayer otherwise establishes
2 to the satisfaction of the Secretary that the
3 security is adequate.

4 “(5) *WAIVER OF CERTAIN RIGHTS.*—No election
5 may be made under paragraph (1) unless the tax-
6 payer consents to the waiver of any right under any
7 treaty of the United States which would preclude as-
8 sessment or collection of any tax imposed by reason
9 of this section.

10 “(6) *ELECTIONS.*—An election under paragraph
11 (1) shall only apply to property described in the elec-
12 tion and, once made, is irrevocable. An election may
13 be made under paragraph (1) with respect to an in-
14 terest in a trust with respect to which gain is re-
15 quired to be recognized under subsection (f)(1).

16 “(7) *INTEREST.*—For purposes of section 6601—
17 “(A) the last date for the payment of tax
18 shall be determined without regard to the election
19 under this subsection, and

20 “(B) section 6621(a)(2) shall be applied by
21 substituting ‘5 percentage points’ for ‘3 percent-
22 age points’ in subparagraph (B) thereof.

23 “(c) *COVERED EXPATRIATE.*—For purposes of this
24 section—

1 “(1) *IN GENERAL.*—*Except as provided in para-*
2 *graph (2), the term ‘covered expatriate’ means an ex-*
3 *patriate.*

4 “(2) *EXCEPTIONS.*—*An individual shall not be*
5 *treated as a covered expatriate if—*

6 “(A) *the individual—*

7 “(i) *became at birth a citizen of the*
8 *United States and a citizen of another*
9 *country and, as of the expatriation date,*
10 *continues to be a citizen of, and is taxed as*
11 *a resident of, such other country, and*

12 “(ii) *has not been a resident of the*
13 *United States (as defined in section*
14 *7701(b)(1)(A)(ii)) during the 5 taxable*
15 *years ending with the taxable year during*
16 *which the expatriation date occurs, or*

17 “(B)(i) *the individual’s relinquishment of*
18 *United States citizenship occurs before such indi-*
19 *vidual attains age 18½, and*

20 “(ii) *the individual has been a resident of*
21 *the United States (as so defined) for not more*
22 *than 5 taxable years before the date of relin-*
23 *quishment.*

24 “(d) *EXEMPT PROPERTY; SPECIAL RULES FOR PEN-*
25 *SION PLANS.*—

1 “(1) *EXEMPT PROPERTY.*—*This section shall not*
2 *apply to the following:*

3 “(A) *UNITED STATES REAL PROPERTY IN-*
4 *TERESTS.*—*Any United States real property in-*
5 *terest (as defined in section 897(c)(1)), other*
6 *than stock of a United States real property hold-*
7 *ing corporation which does not, on the day before*
8 *the expatriation date, meet the requirements of*
9 *section 897(c)(2).*

10 “(B) *SPECIFIED PROPERTY.*—*Any property*
11 *or interest in property not described in subpara-*
12 *graph (A) which the Secretary specifies in regu-*
13 *lations.*

14 “(2) *SPECIAL RULES FOR CERTAIN RETIREMENT*
15 *PLANS.*—

16 “(A) *IN GENERAL.*—*If a covered expatriate*
17 *holds on the day before the expatriation date any*
18 *interest in a retirement plan to which this para-*
19 *graph applies—*

20 “(i) *such interest shall not be treated*
21 *as sold for purposes of subsection (a)(1), but*

22 “(ii) *an amount equal to the present*
23 *value of the expatriate’s nonforfeitable ac-*
24 *crued benefit shall be treated as having been*

1 *received by such individual on such date as*
2 *a distribution under the plan.*

3 “(B) *TREATMENT OF SUBSEQUENT DIS-*
4 *TRIBUTIONS.—In the case of any distribution on*
5 *or after the expatriation date to or on behalf of*
6 *the covered expatriate from a plan from which*
7 *the expatriate was treated as receiving a dis-*
8 *tribution under subparagraph (A), the amount*
9 *otherwise includible in gross income by reason of*
10 *the subsequent distribution shall be reduced by*
11 *the excess of the amount includible in gross in-*
12 *come under subparagraph (A) over any portion*
13 *of such amount to which this subparagraph pre-*
14 *viously applied.*

15 “(C) *TREATMENT OF SUBSEQUENT DIS-*
16 *TRIBUTIONS BY PLAN.—For purposes of this title,*
17 *a retirement plan to which this paragraph ap-*
18 *plies, and any person acting on the plan’s behalf,*
19 *shall treat any subsequent distribution described*
20 *in subparagraph (B) in the same manner as*
21 *such distribution would be treated without re-*
22 *gard to this paragraph.*

23 “(D) *APPLICABLE PLANS.—This paragraph*
24 *shall apply to—*

1 “(i) any qualified retirement plan (as
2 defined in section 4974(c)),

3 “(ii) an eligible deferred compensation
4 plan (as defined in section 457(b)) of an el-
5 igible employer described in section
6 457(e)(1)(A), and

7 “(iii) to the extent provided in regula-
8 tions, any foreign pension plan or similar
9 retirement arrangements or programs.

10 “(e) DEFINITIONS.—For purposes of this section—

11 “(1) EXPATRIATE.—The term ‘expatriate’
12 means—

13 “(A) any United States citizen who relin-
14 quishes citizenship, and

15 “(B) any long-term resident of the United
16 States who—

17 “(i) ceases to be a lawful permanent
18 resident of the United States (within the
19 meaning of section 7701(b)(6)), or

20 “(ii) commences to be treated as a resi-
21 dent of a foreign country under the provi-
22 sions of a tax treaty between the United
23 States and the foreign country and who
24 does not waive the benefits of such treaty

1 *applicable to residents of the foreign coun-*
2 *try.*

3 “(2) *EXPATRIATION DATE.*—*The term ‘expatria-*
4 *tion date’ means—*

5 “(A) *the date an individual relinquishes*
6 *United States citizenship, or*

7 “(B) *in the case of a long-term resident of*
8 *the United States, the date of the event described*
9 *in clause (i) or (ii) of paragraph (1)(B).*

10 “(3) *RELINQUISHMENT OF CITIZENSHIP.*—*A cit-*
11 *izen shall be treated as relinquishing United States*
12 *citizenship on the earliest of—*

13 “(A) *the date the individual renounces such*
14 *individual’s United States nationality before a*
15 *diplomatic or consular officer of the United*
16 *States pursuant to paragraph (5) of section*
17 *349(a) of the Immigration and Nationality Act*
18 *(8 U.S.C. 1481(a)(5)),*

19 “(B) *the date the individual furnishes to the*
20 *United States Department of State a signed*
21 *statement of voluntary relinquishment of United*
22 *States nationality confirming the performance of*
23 *an act of expatriation specified in paragraph*
24 *(1), (2), (3), or (4) of section 349(a) of the Im-*

1 *migration and Nationality Act* (8 U.S.C.
2 1481(a)(1)–(4)),

3 “(C) *the date the United States Department*
4 *of State issues to the individual a certificate of*
5 *loss of nationality, or*

6 “(D) *the date a court of the United States*
7 *cancels a naturalized citizen’s certificate of natu-*
8 *ralization.*

9 *Subparagraph (A) or (B) shall not apply to any in-*
10 *dividual unless the renunciation or voluntary relin-*
11 *quishment is subsequently approved by the issuance to*
12 *the individual of a certificate of loss of nationality by*
13 *the United States Department of State.*

14 “(4) *LONG-TERM RESIDENT.*—*The term ‘long-*
15 *term resident’ has the meaning given to such term by*
16 *section 877(e)(2).*

17 “(f) *SPECIAL RULES APPLICABLE TO BENEFICIARIES’*
18 *INTERESTS IN TRUST.*—

19 “(1) *IN GENERAL.*—*Except as provided in para-*
20 *graph (2), if an individual is determined under para-*
21 *graph (3) to hold an interest in a trust on the day*
22 *before the expatriation date—*

23 “(A) *the individual shall not be treated as*
24 *having sold such interest,*

1 “(B) such interest shall be treated as a sep-
2 arate share in the trust, and

3 “(C)(i) such separate share shall be treated
4 as a separate trust consisting of the assets allo-
5 cable to such share,

6 “(ii) the separate trust shall be treated as
7 having sold its assets on the day before the expa-
8 triation date for their fair market value and as
9 having distributed all of its assets to the indi-
10 vidual as of such time, and

11 “(iii) the individual shall be treated as hav-
12 ing recontributed the assets to the separate trust.

13 Subsection (a)(2) shall apply to any income, gain, or
14 loss of the individual arising from a distribution de-
15 scribed in subparagraph (C)(ii). In determining the
16 amount of such distribution, proper adjustments shall
17 be made for liabilities of the trust allocable to an in-
18 dividual’s share in the trust.

19 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
20 FIED TRUSTS.—

21 “(A) IN GENERAL.—If the trust interest de-
22 scribed in paragraph (1) is an interest in a
23 qualified trust—

24 “(i) paragraph (1) and subsection (a)
25 shall not apply, and

1 “(i) in addition to any other tax im-
2 posed by this title, there is hereby imposed
3 on each distribution with respect to such in-
4 terest a tax in the amount determined
5 under subparagraph (B).

6 “(B) AMOUNT OF TAX.—The amount of tax
7 under subparagraph (A)(i) shall be equal to the
8 lesser of—

9 “(i) the highest rate of tax imposed by
10 section 1(e) for the taxable year which in-
11 cludes the day before the expatriation date,
12 multiplied by the amount of the distribu-
13 tion, or

14 “(ii) the balance in the deferred tax ac-
15 count immediately before the distribution
16 determined without regard to any increases
17 under subparagraph (C)(i) after the 30th
18 day preceding the distribution.

19 “(C) DEFERRED TAX ACCOUNT.—For pur-
20 poses of subparagraph (B)(i)—

21 “(i) OPENING BALANCE.—The opening
22 balance in a deferred tax account with re-
23 spect to any trust interest is an amount
24 equal to the tax which would have been im-
25 posed on the allocable expatriation gain

1 *with respect to the trust interest if such*
2 *gain had been included in gross income*
3 *under subsection (a).*

4 “(ii) *INCREASE FOR INTEREST.—The*
5 *balance in the deferred tax account shall be*
6 *increased by the amount of interest deter-*
7 *mined (on the balance in the account at the*
8 *time the interest accrues), for periods after*
9 *the 90th day after the expatriation date, by*
10 *using the rates and method applicable*
11 *under section 6621 for underpayments of*
12 *tax for such periods, except that section*
13 *6621(a)(2) shall be applied by substituting*
14 *‘5 percentage points’ for ‘3 percentage*
15 *points’ in subparagraph (B) thereof.*

16 “(iii) *DECREASE FOR TAXES PRE-*
17 *VIOUSLY PAID.—The balance in the tax de-*
18 *ferred account shall be reduced—*

19 “(I) *by the amount of taxes im-*
20 *posed by subparagraph (A) on any dis-*
21 *tribution to the person holding the*
22 *trust interest, and*

23 “(II) *in the case of a person hold-*
24 *ing a nonvested interest, to the extent*
25 *provided in regulations, by the amount*

1 of taxes imposed by subparagraph (A)
2 on distributions from the trust with re-
3 spect to nonvested interests not held by
4 such person.

5 “(D) *ALLOCABLE EXPATRIATION GAIN.*—For
6 purposes of this paragraph, the allocable expa-
7 triation gain with respect to any beneficiary’s
8 interest in a trust is the amount of gain which
9 would be allocable to such beneficiary’s vested
10 and nonvested interests in the trust if the bene-
11 ficiary held directly all assets allocable to such
12 interests.

13 “(E) *TAX DEDUCTED AND WITHHELD.*—

14 “(i) *IN GENERAL.*—The tax imposed by
15 subparagraph (A)(i) shall be deducted and
16 withheld by the trustees from the distribu-
17 tion to which it relates.

18 “(ii) *EXCEPTION WHERE FAILURE TO*
19 *WAIVE TREATY RIGHTS.*—If an amount may
20 not be deducted and withheld under clause
21 (i) by reason of the distributee failing to
22 waive any treaty right with respect to such
23 distribution—

24 “(I) the tax imposed by subpara-
25 graph (A)(i) shall be imposed on the

1 *trust and each trustee shall be person-*
2 *ally liable for the amount of such tax,*
3 *and*

4 “(II) *any other beneficiary of the*
5 *trust shall be entitled to recover from*
6 *the distributee the amount of such tax*
7 *imposed on the other beneficiary.*

8 “(F) *DISPOSITION.—If a trust ceases to be*
9 *a qualified trust at any time, a covered expa-*
10 *triate disposes of an interest in a qualified trust,*
11 *or a covered expatriate holding an interest in a*
12 *qualified trust dies, then, in lieu of the tax im-*
13 *posed by subparagraph (A)(ii), there is hereby*
14 *imposed a tax equal to the lesser of—*

15 “(i) *the tax determined under para-*
16 *graph (1) as if the day before the expatria-*
17 *tion date were the date of such cessation,*
18 *disposition, or death, whichever is applica-*
19 *ble, or*

20 “(ii) *the balance in the tax deferred ac-*
21 *count immediately before such date.*

22 *Such tax shall be imposed on the trust and each*
23 *trustee shall be personally liable for the amount*
24 *of such tax and any other beneficiary of the trust*
25 *shall be entitled to recover from the covered expa-*

1 *triate or the estate the amount of such tax im-*
2 *posed on the other beneficiary.*

3 “(G) *DEFINITIONS AND SPECIAL RULES.—*

4 *For purposes of this paragraph—*

5 “(i) *QUALIFIED TRUST.—The term*
6 *‘qualified trust’ means a trust which is de-*
7 *scribed in section 7701(a)(30)(E).*

8 “(ii) *VESTED INTEREST.—The term*
9 *‘vested interest’ means any interest which,*
10 *as of the day before the expatriation date, is*
11 *vested in the beneficiary.*

12 “(iii) *NONVESTED INTEREST.—The*
13 *term ‘nonvested interest’ means, with re-*
14 *spect to any beneficiary, any interest in a*
15 *trust which is not a vested interest. Such*
16 *interest shall be determined by assuming the*
17 *maximum exercise of discretion in favor of*
18 *the beneficiary and the occurrence of all*
19 *contingencies in favor of the beneficiary.*

20 “(iv) *ADJUSTMENTS.—The Secretary*
21 *may provide for such adjustments to the*
22 *bases of assets in a trust or a deferred tax*
23 *account, and the timing of such adjust-*
24 *ments, in order to ensure that gain is taxed*
25 *only once.*

1 “(v) *COORDINATION WITH RETIREMENT*
2 *PLAN RULES.*—*This subsection shall not*
3 *apply to an interest in a trust which is*
4 *part of a retirement plan to which sub-*
5 *section (d)(2) applies.*

6 “(3) *DETERMINATION OF BENEFICIARIES’ INTER-*
7 *EST IN TRUST.*—

8 “(A) *DETERMINATIONS UNDER PARAGRAPH*
9 *(1).*—*For purposes of paragraph (1), a bene-*
10 *ficiary’s interest in a trust shall be based upon*
11 *all relevant facts and circumstances, including*
12 *the terms of the trust instrument and any letter*
13 *of wishes or similar document, historical pat-*
14 *terns of trust distributions, and the existence of*
15 *and functions performed by a trust protector or*
16 *any similar adviser.*

17 “(B) *OTHER DETERMINATIONS.*—*For pur-*
18 *poses of this section—*

19 “(i) *CONSTRUCTIVE OWNERSHIP.*—*If a*
20 *beneficiary of a trust is a corporation, part-*
21 *nership, trust, or estate, the shareholders,*
22 *partners, or beneficiaries shall be deemed to*
23 *be the trust beneficiaries for purposes of this*
24 *section.*

1 “(i) *TAXPAYER RETURN POSITION.*—A
2 *taxpayer shall clearly indicate on its in-*
3 *come tax return—*

4 “(I) *the methodology used to de-*
5 *termine that taxpayer’s trust interest*
6 *under this section, and*

7 “(II) *if the taxpayer knows (or*
8 *has reason to know) that any other*
9 *beneficiary of such trust is using a dif-*
10 *ferent methodology to determine such*
11 *beneficiary’s trust interest under this*
12 *section.*

13 “(g) *TERMINATION OF DEFERRALS, ETC.*—*In the case*
14 *of any covered expatriate, notwithstanding any other provi-*
15 *sion of this title—*

16 “(1) *any period during which recognition of in-*
17 *come or gain is deferred shall terminate on the day*
18 *before the expatriation date, and*

19 “(2) *any extension of time for payment of tax*
20 *shall cease to apply on the day before the expatriation*
21 *date and the unpaid portion of such tax shall be due*
22 *and payable at the time and in the manner pre-*
23 *scribed by the Secretary.*

24 “(h) *IMPOSITION OF TENTATIVE TAX.*—

1 “(1) *IN GENERAL.*—*If an individual is required*
2 *to include any amount in gross income under sub-*
3 *section (a) for any taxable year, there is hereby im-*
4 *posed, immediately before the expatriation date, a tax*
5 *in an amount equal to the amount of tax which*
6 *would be imposed if the taxable year were a short tax-*
7 *able year ending on the expatriation date.*

8 “(2) *DUE DATE.*—*The due date for any tax im-*
9 *posed by paragraph (1) shall be the 90th day after the*
10 *expatriation date.*

11 “(3) *TREATMENT OF TAX.*—*Any tax paid under*
12 *paragraph (1) shall be treated as a payment of the*
13 *tax imposed by this chapter for the taxable year to*
14 *which subsection (a) applies.*

15 “(4) *DEFERRAL OF TAX.*—*The provisions of sub-*
16 *section (b) shall apply to the tax imposed by this sub-*
17 *section to the extent attributable to gain includible in*
18 *gross income by reason of this section.*

19 “(i) *SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.*—

20 “(1) *IMPOSITION OF LIEN.*—

21 “(A) *IN GENERAL.*—*If a covered expatriate*
22 *makes an election under subsection (a)(4) or (b)*
23 *which results in the deferral of any tax imposed*
24 *by reason of subsection (a), the deferred amount*
25 *(including any interest, additional amount, ad-*

1 *dition to tax, assessable penalty, and costs at-*
2 *tributable to the deferred amount) shall be a lien*
3 *in favor of the United States on all property of*
4 *the expatriate located in the United States (with-*
5 *out regard to whether this section applies to the*
6 *property).*

7 “(B) *DEFERRED AMOUNT.*—*For purposes of*
8 *this subsection, the deferred amount is the*
9 *amount of the increase in the covered expatri-*
10 *ate’s income tax which, but for the election under*
11 *subsection (a)(4) or (b), would have occurred by*
12 *reason of this section for the taxable year includ-*
13 *ing the expatriation date.*

14 “(2) *PERIOD OF LIEN.*—*The lien imposed by this*
15 *subsection shall arise on the expatriation date and*
16 *continue until—*

17 “(A) *the liability for tax by reason of this*
18 *section is satisfied or has become unenforceable*
19 *by reason of lapse of time, or*

20 “(B) *it is established to the satisfaction of*
21 *the Secretary that no further tax liability may*
22 *arise by reason of this section.*

23 “(3) *CERTAIN RULES APPLY.*—*The rules set forth*
24 *in paragraphs (1), (3), and (4) of section 6324A(d)*
25 *shall apply with respect to the lien imposed by this*

1 *subsection as if it were a lien imposed by section*
2 *6324A.*

3 “(j) *REGULATIONS.—The Secretary shall prescribe*
4 *such regulations as may be necessary or appropriate to*
5 *carry out the purposes of this section.*”.

6 (b) *INCLUSION IN INCOME OF GIFTS AND BEQUESTS*
7 *RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS*
8 *FROM EXPATRIATES.—Section 102 (relating to gifts, etc.*
9 *not included in gross income) is amended by adding at the*
10 *end the following new subsection:*

11 “(d) *GIFTS AND INHERITANCES FROM COVERED EX-*
12 *PATRIATES.—*

13 “(1) *TREATMENT OF GIFTS AND INHERIT-*
14 *ANCES.—*

15 “(A) *IN GENERAL.—Subsection (a) shall not*
16 *exclude from gross income the value of any prop-*
17 *erty acquired by gift, bequest, devise, or inherit-*
18 *ance from a covered expatriate after the expa-*
19 *triation date.*

20 “(B) *DETERMINATION OF BASIS.—Notwith-*
21 *standing sections 1015 or 1022, the basis of any*
22 *property described in subparagraph (A) in the*
23 *hands of the donee or the person acquiring such*
24 *property from the decedent shall be equal to the*

1 *fair market value of the property at the time of*
2 *the gift, bequest, devise, or inheritance.*

3 “(2) *EXCEPTIONS FOR TRANSFERS OTHERWISE*
4 *SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)*
5 *shall not apply to any property if either—*

6 “(A) *the gift, bequest, devise, or inheritance*
7 *is—*

8 “(i) *shown on a timely filed return of*
9 *tax imposed by chapter 12 as a taxable gift*
10 *by the covered expatriate, or*

11 “(ii) *included in the gross estate of the*
12 *covered expatriate for purposes of chapter*
13 *11 and shown on a timely filed return of*
14 *tax imposed by chapter 11 of the estate of*
15 *the covered expatriate, or*

16 “(B) *no such return was timely filed but no*
17 *such return would have been required to be filed*
18 *even if the covered expatriate were a citizen or*
19 *long-term resident of the United States.*

20 “(3) *DEFINITIONS.—For purposes of this sub-*
21 *section, any term used in this subsection which is also*
22 *used in section 877A shall have the same meaning as*
23 *when used in section 877A.”.*

1 (c) *DEFINITION OF TERMINATION OF UNITED STATES*
2 *CITIZENSHIP.*—Section 7701(a) is amended by adding at
3 *the end the following new paragraph:*

4 “(50) *TERMINATION OF UNITED STATES CITIZEN-*
5 *SHIP.*—

6 “(A) *IN GENERAL.*—*An individual shall not*
7 *cease to be treated as a United States citizen be-*
8 *fore the date on which the individual’s citizen-*
9 *ship is treated as relinquished under section*
10 *877A(e)(3).*

11 “(B) *DUAL CITIZENS.*—*Under regulations*
12 *prescribed by the Secretary, subparagraph (A)*
13 *shall not apply to an individual who became at*
14 *birth a citizen of the United States and a citizen*
15 *of another country.”.*

16 (d) *INELIGIBILITY FOR VISA OR ADMISSION TO*
17 *UNITED STATES.*—

18 (1) *IN GENERAL.*—Section 212(a)(10)(E) of the
19 *Immigration and Nationality Act (8 U.S.C.*
20 *1182(a)(10)(E)) is amended to read as follows:*

21 “(E) *FORMER CITIZENS NOT IN COMPLI-*
22 *ANCE WITH EXPATRIATION REVENUE PROVI-*
23 *SIONS.*—*Any alien who is a former citizen of the*
24 *United States who relinquishes United States*
25 *citizenship (within the meaning of section*

1 877A(e)(3) of the Internal Revenue Code of 1986)
2 and who is not in compliance with section 877A
3 of such Code (relating to expatriation) is inad-
4 missible.”.

5 (2) AVAILABILITY OF INFORMATION.—

6 (A) IN GENERAL.—Section 6103(l) (relating
7 to disclosure of returns and return information
8 for purposes other than tax administration) is
9 amended by adding at the end the following new
10 paragraph:

11 “(21) DISCLOSURE TO DENY VISA OR ADMISSION
12 TO CERTAIN EXPATRIATES.—Upon written request of
13 the Attorney General or the Attorney General’s dele-
14 gate, the Secretary shall disclose whether an indi-
15 vidual is in compliance with section 877A (and if not
16 in compliance, any items of noncompliance) to offi-
17 cers and employees of the Federal agency responsible
18 for administering section 212(a)(10)(E) of the Immig-
19 ration and Nationality Act solely for the purpose of,
20 and to the extent necessary in, administering such
21 section 212(a)(10)(E).”.

22 (B) SAFEGUARDS.—Section 6103(p)(4) (re-
23 lating to safeguards) is amended by striking “or
24 (20)” each place it appears and inserting “(20),
25 or (21)”.

1 (3) *EFFECTIVE DATES.*—*The amendments made*
2 *by this subsection shall apply to individuals who re-*
3 *linquish United States citizenship on or after the date*
4 *of the enactment of this Act.*

5 (e) *CONFORMING AMENDMENTS.*—

6 (1) *Section 877 is amended by adding at the end*
7 *the following new subsection:*

8 “(h) *APPLICATION.*—*This section shall not apply to an*
9 *expatriate (as defined in section 877A(e)) whose expatria-*
10 *tion date (as so defined) occurs on or after the date of the*
11 *enactment of this subsection.”.*

12 (2) *Section 2107 is amended by adding at the*
13 *end the following new subsection:*

14 “(f) *APPLICATION.*—*This section shall not apply to*
15 *any expatriate subject to section 877A.”.*

16 (3) *Section 2501(a)(3) is amended by adding at*
17 *the end the following new subparagraph:*

18 “(C) *APPLICATION.*—*This paragraph shall*
19 *not apply to any expatriate subject to section*
20 *877A.”.*

21 (4) *Section 6039G(a) is amended by inserting*
22 *“or 877A” after “section 877(b)”.*

23 (5) *The second sentence of section 6039G(d) is*
24 *amended by inserting “or who relinquishes United*

1 *States citizenship (within the meaning of section*
2 *877A(e)(3))” after “section 877(a)”.*

3 *(f) CLERICAL AMENDMENT.—The table of sections for*
4 *subpart A of part II of subchapter N of chapter 1 is amend-*
5 *ed by inserting after the item relating to section 877 the*
6 *following new item:*

“Sec. 877A. Tax responsibilities of expatriation.”.

7 *(g) EFFECTIVE DATE.—*

8 *(1) IN GENERAL.—Except as provided in this*
9 *subsection, the amendments made by this section shall*
10 *apply to expatriates (within the meaning of section*
11 *877A(e) of the Internal Revenue Code of 1986, as*
12 *added by this section) whose expatriation date (as so*
13 *defined) occurs on or after the date of the enactment*
14 *of this Act.*

15 *(2) GIFTS AND BEQUESTS.—Section 102(d) of*
16 *the Internal Revenue Code of 1986 (as added by sub-*
17 *section (b)) shall apply to gifts and bequests received*
18 *on or after the date of the enactment of this Act, from*
19 *an individual or the estate of an individual whose ex-*
20 *patriation date (as so defined) occurs after such date.*

21 *(3) DUE DATE FOR TENTATIVE TAX.—The due*
22 *date under section 877A(h)(2) of the Internal Revenue*
23 *Code of 1986, as added by this section, shall in no*
24 *event occur before the 90th day after the date of the*
25 *enactment of this Act.*

1 **SEC. 226. LIMITATION ON ANNUAL AMOUNTS WHICH MAY**
2 **BE DEFERRED UNDER NONQUALIFIED DE-**
3 **FERRED COMPENSATION ARRANGEMENTS.**

4 (a) *IN GENERAL.*—Section 409A(a) of the Internal
5 Revenue Code of 1986 (relating to inclusion of gross income
6 under nonqualified deferred compensation plans) is
7 amended—

8 (1) by striking “and (4)” in subclause (I) of
9 paragraph (1)(A)(i) and inserting “(4), and (5)”,
10 and

11 (2) by adding at the end the following new para-
12 graph:

13 “(5) *ANNUAL LIMITATION ON AGGREGATE DE-*
14 *FERRED AMOUNTS.*—

15 “(A) *LIMITATION.*—The requirements of this
16 paragraph are met if the plan provides that the
17 aggregate amount of compensation which is de-
18 ferred for any taxable year with respect to a par-
19 ticipant under the plan may not exceed the ap-
20 plicable dollar amount for the taxable year.

21 “(B) *INCLUSION OF FUTURE EARNINGS.*—If
22 an amount is includible under paragraph (1) in
23 the gross income of a participant for any taxable
24 year by reason of any failure to meet the require-
25 ments of this paragraph, any income (whether
26 actual or notional) for any subsequent taxable

1 year shall be included in gross income under
2 paragraph (1)(A) in such subsequent taxable
3 year to the extent such income—

4 “(i) is attributable to compensation (or
5 income attributable to such compensation)
6 required to be included in gross income by
7 reason of such failure (including by reason
8 of this subparagraph), and

9 “(ii) is not subject to a substantial risk
10 of forfeiture and has not been previously in-
11 cluded in gross income.

12 “(C) *AGGREGATION RULE.*—For purposes of
13 this paragraph, all nonqualified deferred com-
14 pensation plans maintained by all employers
15 treated as a single employer under subsection
16 (d)(6) shall be treated as 1 plan.

17 “(D) *APPLICABLE DOLLAR AMOUNT.*—For
18 purposes of this paragraph—

19 “(i) *IN GENERAL.*—The term ‘applica-
20 ble dollar amount’ means, with respect to
21 any participant, the lesser of—

22 “(I) the average annual com-
23 pensation which was payable during
24 the base period to the participant by
25 the employer maintaining the non-

1 *qualified deferred compensation plan*
2 *(or any predecessor of the employer)*
3 *and which was includible in the par-*
4 *ticipant's gross income for taxable*
5 *years in the base period, or*

6 *“(II) \$1,000,000.*

7 *“(ii) BASE PERIOD.—*

8 *“(I) IN GENERAL.—The term ‘base*
9 *period’ means, with respect to any*
10 *computation year, the 5-taxable year*
11 *period ending with the taxable year*
12 *preceding the computation year.*

13 *“(II) ELECTIONS MADE BEFORE*
14 *COMPUTATION YEAR.—If, before the be-*
15 *ginning of the computation year, an*
16 *election described in paragraph (4)(B)*
17 *is made by the participant to have*
18 *compensation for services performed in*
19 *the computation year deferred under a*
20 *nonqualified deferred compensation*
21 *plan, the base period shall be the 5-tax-*
22 *able year period ending with the tax-*
23 *able year preceding the taxable year in*
24 *which the election is made.*

1 “(III) COMPUTATION YEAR.—For
2 purposes of this clause, the term ‘com-
3 putation year’ means any taxable year
4 of the participant for which the limita-
5 tion under subparagraph (A) is being
6 determined.

7 “(IV) SPECIAL RULE FOR EM-
8 PLOYEES OF LESS THAN 5 YEARS.—If
9 a participant did not perform services
10 for the employer maintaining the non-
11 qualified deferred compensation plan
12 (or any predecessor of the employer)
13 during the entire 5-taxable year period
14 referred to in subparagraph (A) or (B),
15 only the portion of such period during
16 which the participant performed such
17 services shall be taken into account.”.

18 (b) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to taxable years beginning
21 after December 31, 2006, except that—

22 (A) the amendments shall only apply to
23 amounts deferred after December 31, 2006 (and
24 to earnings on such amounts), and

1 (B) taxable years beginning on or before
2 December 31, 2006, shall be taken into account
3 in determining the average annual compensation
4 of a participant during any base period for pur-
5 poses of section 409A(a)(5)(D) of the Internal
6 Revenue Code of 1986 (as added by such amend-
7 ments).

8 (2) *GUIDANCE RELATING TO CERTAIN EXISTING*
9 *ARRANGEMENTS.*—Not later than 60 days after the
10 date of the enactment of this Act, the Secretary of the
11 Treasury shall issue guidance providing a limited pe-
12 riod during which a nonqualified deferred compensa-
13 tion plan adopted before December 31, 2006, may,
14 without violating the requirements of section 409A(a)
15 of such Code, be amended—

16 (A) to provide that a participant may, no
17 later than December 31, 2007, cancel or modify
18 an outstanding deferral election with regard to
19 all or a portion of amounts deferred after Decem-
20 ber 31, 2006, to the extent necessary for the plan
21 to meet the requirements of section 409A(a)(5) of
22 such Code (as added by the amendments made by
23 this section), but only if amounts subject to the
24 cancellation or modification are, to the extent
25 not previously included in gross income, includ-

1 *ible in income of the participant when no longer*
2 *subject to substantial risk of forfeiture, and*

3 *(B) to conform to the requirements of sec-*
4 *tion 409A(a)(5) of such Code (as added by the*
5 *amendments made by this section) with regard*
6 *to amounts deferred after December 31, 2006.*

7 **SEC. 227. INCREASE IN CRIMINAL MONETARY PENALTY LIM-**
8 **ITATION FOR THE UNDERPAYMENT OR OVER-**
9 **PAYMENT OF TAX DUE TO FRAUD.**

10 *(a) IN GENERAL.—Section 7206 (relating to fraud and*
11 *false statements) is amended—*

12 *(1) by striking “Any person who—” and insert-*
13 *ing “(a) IN GENERAL.—”, and*

14 *(2) by adding at the end the following new sub-*
15 *section:*

16 *“(b) INCREASE IN MONETARY LIMITATION FOR UN-*
17 *DERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—*

18 *If any portion of any underpayment (as defined in section*
19 *6664(a)) or overpayment (as defined in section 6401(a)) of*
20 *tax required to be shown on a return is attributable to*
21 *fraudulent action described in subsection (a), the applicable*
22 *dollar amount under subsection (a) shall in no event be less*
23 *than an amount equal to such portion. A rule similar to*
24 *the rule under section 6663(b) shall apply for purposes of*
25 *determining the portion so attributable.”.*

1 **(b) INCREASE IN PENALTIES.—**

2 **(1) ATTEMPT TO EVADE OR DEFEAT TAX.—***Sec-*
3 *tion 7201 is amended—*

4 **(A) by striking “\$100,000” and inserting**
5 **“\$500,000”,**

6 **(B) by striking “\$500,000” and inserting**
7 **“\$1,000,000”, and**

8 **(C) by striking “5 years” and inserting “10**
9 **years”.**

10 **(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY**
11 **INFORMATION, OR PAY TAX.—***Section 7203 is*
12 *amended—*

13 **(A) in the first sentence—**

14 **(i) by striking “Any person” and in-**
15 **serting the following:**

16 **“(a) IN GENERAL.—Any person”, and**

17 **(ii) by striking “\$25,000” and insert-**
18 **ing “\$50,000”,**

19 **(B) in the third sentence, by striking “sec-**
20 **tion” and inserting “subsection”, and**

21 **(C) by adding at the end the following new**
22 **subsection:**

23 **“(b) AGGRAVATED FAILURE TO FILE.—**

1 “(1) *IN GENERAL.*—*In the case of any failure de-*
2 *scribed in paragraph (2), the first sentence of sub-*
3 *section (a) shall be applied by substituting—*

4 “(A) ‘felony’ for ‘misdemeanor’,

5 “(B) ‘\$500,000 (\$1,000,000’ for ‘\$25,000
6 (\$100,000’, and

7 “(C) ‘10 years’ for ‘1 year.’.”

8 “(2) *FAILURE DESCRIBED.*—*A failure described*
9 *in this paragraph is a failure to make a return de-*
10 *scribed in subsection (a) for a period of 3 or more*
11 *consecutive taxable years if the aggregate tax liability*
12 *for such period is not less than \$100,000.’.”*

13 (3) *FRAUD AND FALSE STATEMENTS.*—*Section*
14 *7206(a) (as redesignated by subsection (a)) is*
15 *amended—*

16 (A) *by striking “\$100,000” and inserting*
17 *“\$500,000”,*

18 (B) *by striking “\$500,000” and inserting*
19 *“\$1,000,000”, and*

20 (C) *by striking “3 years” and inserting “5*
21 *years”.*

22 (c) *EFFECTIVE DATE.*—*The amendments made by this*
23 *section shall apply to actions, and failures to act, occurring*
24 *after the date of the enactment of this Act.*

1 **SEC. 228. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
2 **INTEREST ON UNDERPAYMENTS RELATED TO**
3 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
4 **MENTS.**

5 (a) *DETERMINATION OF PENALTY.*—

6 (1) *IN GENERAL.*—*Notwithstanding any other*
7 *provision of law, in the case of an applicable*
8 *taxpayer—*

9 (A) *the determination as to whether any in-*
10 *terest or applicable penalty is to be imposed with*
11 *respect to any arrangement described in para-*
12 *graph (2), or to any underpayment of Federal*
13 *income tax attributable to items arising in con-*
14 *nection with any such arrangement, shall be*
15 *made without regard to the rules of subsections*
16 *(b), (c), and (d) of section 6664 of the Internal*
17 *Revenue Code of 1986, and*

18 (B) *if any such interest or applicable pen-*
19 *alty is imposed, the amount of such interest or*
20 *penalty shall be equal to twice that determined*
21 *without regard to this section.*

22 (2) *APPLICABLE TAXPAYER.*—*For purposes of*
23 *this subsection—*

24 (A) *IN GENERAL.*—*The term “applicable*
25 *taxpayer” means a taxpayer which—*

1 (i) has underreported its United States
2 income tax liability with respect to any
3 item which directly or indirectly involves—

4 (I) any financial arrangement
5 which in any manner relies on the use
6 of offshore payment mechanisms (in-
7 cluding credit, debit, or charge cards)
8 issued by banks or other entities in for-
9 eign jurisdictions, or

10 (II) any offshore financial ar-
11 rangement (including any arrange-
12 ment with foreign banks, financial in-
13 stitutions, corporations, partnerships,
14 trusts, or other entities), and

15 (ii) has neither signed a closing agree-
16 ment pursuant to the Voluntary Offshore
17 Compliance Initiative established by the De-
18 partment of the Treasury under Revenue
19 Procedure 2003–11 nor voluntarily dis-
20 closed its participation in such arrange-
21 ment by notifying the Internal Revenue
22 Service of such arrangement prior to the
23 issue being raised by the Internal Revenue
24 Service during an examination.

1 (B) *AUTHORITY TO WAIVE.*—*The Secretary*
2 *of the Treasury or the Secretary’s delegate may*
3 *waive the application of paragraph (1) to any*
4 *taxpayer if the Secretary or the Secretary’s dele-*
5 *gate determines that the use of such offshore pay-*
6 *ment mechanisms is incidental to the trans-*
7 *action and, in addition, in the case of a trade*
8 *or business, such use is conducted in the ordi-*
9 *nary course of the type of trade or business of the*
10 *taxpayer.*

11 (C) *ISSUES RAISED.*—*For purposes of sub-*
12 *paragraph (A)(ii), an item shall be treated as an*
13 *issue raised during an examination if the indi-*
14 *vidual examining the return—*

15 (i) *communicates to the taxpayer*
16 *knowledge about the specific item, or*

17 (ii) *has made a request to the taxpayer*
18 *for information and the taxpayer could not*
19 *make a complete response to that request*
20 *without giving the examiner knowledge of*
21 *the specific item.*

22 (b) *APPLICABLE PENALTY.*—*For purposes of this sec-*
23 *tion, the term “applicable penalty” means any penalty, ad-*
24 *dition to tax, or fine imposed under chapter 68 of the Inter-*
25 *nal Revenue Code of 1986.*

1 (c) *EFFECTIVE DATE.*—*The provisions of this section*
2 *shall apply to interest, penalties, additions to tax, and fines*
3 *with respect to any taxable year if, as of the date of the*
4 *enactment of this Act, the assessment of any tax, penalty,*
5 *or interest with respect to such taxable year is not prevented*
6 *by the operation of any law or rule of law.*

7 **SEC. 229. INCREASE IN PENALTY FOR BAD CHECKS AND**
8 **MONEY ORDERS.**

9 (a) *IN GENERAL.*—*Section 6657 (relating to bad*
10 *checks) is amended—*

11 (1) *by striking “\$750” and inserting “\$1,250”,*
12 *and*

13 (2) *by striking “\$15” and inserting “\$25”.*

14 (b) *EFFECTIVE DATE.*—*The amendments made by this*
15 *section apply to checks or money orders received after the*
16 *date of the enactment of this Act.*

17 **SEC. 230. TREATMENT OF CONTINGENT PAYMENT CON-**
18 **VERTIBLE DEBT INSTRUMENTS.**

19 (a) *IN GENERAL.*—*Section 1275(d) (relating to regula-*
20 *tion authority) is amended—*

21 (1) *by striking “The Secretary” and inserting*
22 *the following:*

23 “(1) *IN GENERAL.*—*The Secretary”, and*

24 (2) *by adding at the end the following new para-*
25 *graph:*

1 “(2) *TREATMENT OF CONTINGENT PAYMENT CON-*
2 *VERTIBLE DEBT.*—

3 “(A) *IN GENERAL.*—*In the case of a debt in-*
4 *strument which—*

5 “(i) *is convertible into stock of the*
6 *issuing corporation, into stock or debt of a*
7 *related party (within the meaning of section*
8 *267(b) or 707(b)(1)), or into cash or other*
9 *property in an amount equal to the approx-*
10 *imate value of such stock or debt, and*

11 “(ii) *provides for contingent payments,*
12 *any regulations which require original issue dis-*
13 *count to be determined by reference to the com-*
14 *parable yield of a noncontingent fixed-rate debt*
15 *instrument shall be applied as if the regulations*
16 *require that such comparable yield be determined*
17 *by reference to a noncontingent fixed-rate debt*
18 *instrument which is convertible into stock.*

19 “(B) *SPECIAL RULE.*—*For purposes of sub-*
20 *paragraph (A), the comparable yield shall be de-*
21 *termined without taking into account the yield*
22 *resulting from the conversion of a debt instru-*
23 *ment into stock.”.*

1 **(b) CROSS REFERENCE.**—Section 163(e)(6) (relating
2 to cross references) is amended by adding at the end the
3 following:

4 “For the treatment of contingent payment
5 convertible debt, see section 1275(d)(2).”.

6 **(c) EFFECTIVE DATE.**—The amendments made by this
7 section shall apply to debt instruments issued on or after
8 the date of the enactment of this Act.

9 **SEC. 231. EXTENSION OF IRS USER FEES.**

10 Subsection (c) of section 7528 (relating to Internal
11 Revenue Service user fees) is amended by striking “Sep-
12 tember 30, 2014” and inserting “September 30, 2016”.

13 **SEC. 232. MODIFICATION OF COLLECTION DUE PROCESS**
14 **PROCEDURES FOR EMPLOYMENT TAX LIABIL-**
15 **ITIES.**

16 **(a) IN GENERAL.**—Section 6330(f) (relating to jeop-
17 ardy and State refund collection) is amended—

18 (1) by striking “; or” at the end of paragraph

19 (1) and inserting a comma,

20 (2) by adding “or” at the end of paragraph (2),

21 and

22 (3) by inserting after paragraph (2) the fol-
23 lowing new paragraph:

1 “(3) the Secretary has served a levy in connec-
 2 tion with the collection of taxes under chapter 21, 22,
 3 23, or 24.”.

4 (b) *EFFECTIVE DATE.*—The amendments made by this
 5 section shall apply to levies issued on or after the date that
 6 is 120 days after the date of the enactment of this Act.

7 **SEC. 233. MODIFICATIONS TO WHISTLEBLOWER REFORMS.**

8 (a) *MODIFICATION OF TAX THRESHOLD FOR*
 9 *AWARDS.*—Subparagraph (B) of section 7623(b)(5), as
 10 added by the Tax Relief and Health Care Act of 2006, is
 11 amended by striking “\$2,000,000” and inserting “\$20,000”.

12 (b) *WHISTLEBLOWER OFFICE.*—

13 (1) *IN GENERAL.*—Section 7623 is amended by
 14 adding at the end the following new subsections:

15 “(c) *WHISTLEBLOWER OFFICE.*—

16 “(1) *IN GENERAL.*—There is established in the
 17 Internal Revenue Service an office to be known as the
 18 ‘Whistleblower Office’ which—

19 “(A) shall at all times operate at the direc-
 20 tion of the Commissioner and coordinate and
 21 consult with other divisions in the Internal Rev-
 22 enue Service as directed by the Commissioner,

23 “(B) shall analyze information received
 24 from any individual described in subsection (b)
 25 and either investigate the matter itself or assign

1 *it to the appropriate Internal Revenue Service*
2 *office,*

3 “(C) shall monitor any action taken with
4 respect to such matter,

5 “(D) shall inform such individual that it
6 has accepted the individual’s information for
7 further review,

8 “(E) may require such individual and any
9 legal representative of such individual to not dis-
10 close any information so provided,

11 “(F) in its sole discretion, may ask for ad-
12 ditional assistance from such individual or any
13 legal representative of such individual, and

14 “(G) shall determine the amount to be
15 awarded to such individual under subsection (b).

16 “(2) *FUNDING FOR OFFICE.*—*There is authorized*
17 *to be appropriated \$10,000,000 for each fiscal year*
18 *for the Whistleblower Office. These funds shall be used*
19 *to maintain the Whistleblower Office and also to re-*
20 *imburse other Internal Revenue Service offices for re-*
21 *lated costs, such as costs of investigation and collec-*
22 *tion.*

23 “(3) *REQUEST FOR ASSISTANCE.*—

24 “(A) *IN GENERAL.*—*Any assistance re-*
25 *quested under paragraph (1)(F) shall be under*

1 *the direction and control of the Whistleblower Of-*
2 *fice or the office assigned to investigate the mat-*
3 *ter under subparagraph (A). No individual or*
4 *legal representative whose assistance is so re-*
5 *quested may by reason of such request represent*
6 *himself or herself as an employee of the Federal*
7 *Government.*

8 “(B) *FUNDING OF ASSISTANCE.—From the*
9 *amounts available for expenditure under sub-*
10 *section (b), the Whistleblower Office may, with*
11 *the agreement of the individual described in sub-*
12 *section (b), reimburse the costs incurred by any*
13 *legal representative of such individual in pro-*
14 *viding assistance described in subparagraph (A).*

15 “(d) *REPORTS.—The Secretary shall each year con-*
16 *duct a study and report to Congress on the use of this sec-*
17 *tion, including—*

18 “(1) *an analysis of the use of this section during*
19 *the preceding year and the results of such use, and*

20 “(2) *any legislative or administrative rec-*
21 *ommendations regarding the provisions of this section*
22 *and its application.”.*

23 “(2) *CONFORMING AMENDMENT.—Section 406 of*
24 *division A of the Tax Relief and Health Care Act of*
25 *2006 is amended by striking subsections (b) and (c).*

1 (3) *REPORT ON IMPLEMENTATION.*—Not later
2 than 6 months after the date of the enactment of this
3 Act, the Secretary of the Treasury shall submit to
4 Congress a report on the establishment and operation
5 of the Whistleblower Office under section 7623(c) of
6 the Internal Revenue Code of 1986.

7 (c) *PUBLICITY OF AWARD APPEALS.*—Paragraph (4)
8 of section 7623(b), as added by the Tax Relief and Health
9 Care Act of 2006, is amended to read as follows:

10 “(4) *APPEAL OF AWARD DETERMINATION.*—

11 “(A) *IN GENERAL.*—Any determination re-
12 garding an award under paragraph (1), (2), or
13 (3) may, within 30 days of such determination,
14 be appealed to the Tax Court (and the Tax Court
15 shall have jurisdiction with respect to such mat-
16 ter).

17 “(B) *PUBLICITY OF APPEALS.*—Notwith-
18 standing sections 7458 and 7461, the Tax Court
19 may, in order to preserve the anonymity, pri-
20 vacy, or confidentiality of any person under this
21 subsection, provide by rules adopted under sec-
22 tion 7453 that portions of filings, hearings, testi-
23 mony, evidence, and reports in connection with
24 proceedings under this subsection may be closed
25 to the public or to inspection by the public.”

1 (d) *EFFECTIVE DATE.*—

2 (1) *IN GENERAL.*—*Except as provided in para-*
3 *graph (2), the amendments made by this section shall*
4 *apply to information provided on or after the date of*
5 *the enactment of this Act.*

6 (2) *PUBLICITY OF AWARD APPEALS.*—*The*
7 *amendment made by subsection (c) shall take effect as*
8 *if included in the amendments made by section 406*
9 *of the Tax Relief and Health Care Act of 2006.*

10 **SEC. 234. MODIFICATIONS OF DEFINITION OF EMPLOYEES**

11 **COVERED BY DENIAL OF DEDUCTION FOR EX-**
12 **CESSIVE EMPLOYEE REMUNERATION.**

13 (a) *IN GENERAL.*—*Paragraph (3) of section 162(m) is*
14 *amended to read as follows:*

15 “(3) *COVERED EMPLOYEE.*—*For purposes of this*
16 *subsection, the term ‘covered employee’ means, with*
17 *respect to any taxpayer for any taxable year, an indi-*
18 *vidual who—*

19 “(A) *was the chief executive officer of the*
20 *taxpayer, or an individual acting in such a ca-*
21 *capacity, at any time during the taxable year,*

22 “(B) *is 1 of the 4 highest compensated offi-*
23 *cers of the taxpayer for the taxable year (other*
24 *than the individual described in subparagraph*
25 *(A)), or*

1 “(C) was a covered employee of the taxpayer
2 (or any predecessor) for any preceding taxable
3 year beginning after December 31, 2006.

4 *In the case of an individual who was a covered em-*
5 *ployee for any taxable year beginning after December*
6 *31, 2006, the term ‘covered employee’ shall include a*
7 *beneficiary of such employee with respect to any re-*
8 *muneration for services performed by such employee*
9 *as a covered employee (whether or not such services*
10 *are performed during the taxable year in which the*
11 *remuneration is paid).”.*

12 (b) *EFFECTIVE DATE.*—*The amendment made by this*
13 *section shall apply to taxable years beginning after Decem-*
14 *ber 31, 2006.*

15 ***Subtitle C—General Provisions***

16 ***SEC. 241. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL*** 17 ***BUSINESSES.***

18 (a) *IN GENERAL.*—*Section 212 of the Small Business*
19 *Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601*
20 *note) is amended by striking subsection (a) and inserting*
21 *the following:*

22 “(a) *COMPLIANCE GUIDE.*—

23 “(1) *IN GENERAL.*—*For each rule or group of re-*
24 *lated rules for which an agency is required to prepare*
25 *a final regulatory flexibility analysis under section*

1 605(b) of title 5, United States Code, the agency shall
2 publish 1 or more guides to assist small entities in
3 complying with the rule and shall entitle such publi-
4 cations ‘small entity compliance guides’.

5 “(2) *PUBLICATION OF GUIDES.*—The publication
6 of each guide under this subsection shall include—

7 “(A) the posting of the guide in an easily
8 identified location on the website of the agency;
9 and

10 “(B) distribution of the guide to known in-
11 dustry contacts, such as small entities, associa-
12 tions, or industry leaders affected by the rule.

13 “(3) *PUBLICATION DATE.*—An agency shall pub-
14 lish each guide (including the posting and distribu-
15 tion of the guide as described under paragraph (2))—

16 “(A) on the same date as the date of publi-
17 cation of the final rule (or as soon as possible
18 after that date); and

19 “(B) not later than the date on which the
20 requirements of that rule become effective.

21 “(4) *COMPLIANCE ACTIONS.*—

22 “(A) *IN GENERAL.*—Each guide shall ex-
23 plain the actions a small entity is required to
24 take to comply with a rule.

1 “(B) *EXPLANATION.*—*The explanation*
2 *under subparagraph (A)—*

3 “(i) *shall include a description of ac-*
4 *tions needed to meet the requirements of a*
5 *rule, to enable a small entity to know when*
6 *such requirements are met; and*

7 “(ii) *if determined appropriate by the*
8 *agency, may include a description of pos-*
9 *sible procedures, such as conducting tests,*
10 *that may assist a small entity in meeting*
11 *such requirements, except that, compliance*
12 *with any procedures described pursuant to*
13 *this section does not establish compliance*
14 *with the rule, or establish a presumption or*
15 *inference of such compliance.*

16 “(C) *PROCEDURES.*—*Procedures described*
17 *under subparagraph (B)(ii)—*

18 “(i) *shall be suggestions to assist small*
19 *entities; and*

20 “(ii) *shall not be additional require-*
21 *ments, or diminish requirements, relating to*
22 *the rule.*

23 “(5) *AGENCY PREPARATION OF GUIDES.*—*The*
24 *agency shall, in its sole discretion, taking into ac-*
25 *count the subject matter of the rule and the language*

1 *of relevant statutes, ensure that the guide is written*
2 *using sufficiently plain language likely to be under-*
3 *stood by affected small entities. Agencies may prepare*
4 *separate guides covering groups or classes of similarly*
5 *affected small entities and may cooperate with asso-*
6 *ciations of small entities to develop and distribute*
7 *such guides. An agency may prepare guides and*
8 *apply this section with respect to a rule or a group*
9 *of related rules.*

10 “(6) *REPORTING.*—*Not later than 1 year after*
11 *the date of enactment of the Fair Minimum Wage Act*
12 *of 2007, and annually thereafter, the head of each*
13 *agency shall submit a report to the Committee on*
14 *Small Business and Entrepreneurship of the Senate,*
15 *the Committee on Small Business of the House of*
16 *Representatives, and any other committee of relevant*
17 *jurisdiction describing the status of the agency’s com-*
18 *pliance with paragraphs (1) through (5).”.*

19 **(b) TECHNICAL AND CONFORMING AMENDMENT.**—*Sec-*
20 *tion 211(3) of the Small Business Regulatory Enforcement*
21 *Fairness Act of 1996 (5 U.S.C. 601 note) is amended by*
22 *inserting “and entitled” after “designated”.*

23 **SEC. 242. SMALL BUSINESS CHILD CARE GRANT PROGRAM.**

24 **(a) ESTABLISHMENT.**—*The Secretary of Health and*
25 *Human Services (referred to in this section as the “Sec-*

1 *retary”)* shall establish a program to award grants to
2 *States, on a competitive basis, to assist States in providing*
3 *funds to encourage the establishment and operation of em-*
4 *ployer-operated child care programs.*

5 **(b) APPLICATION.**—*To be eligible to receive a grant*
6 *under this section, a State shall prepare and submit to the*
7 *Secretary an application at such time, in such manner, and*
8 *containing such information as the Secretary may require,*
9 *including an assurance that the funds required under sub-*
10 *section (e) will be provided.*

11 **(c) AMOUNT AND PERIOD OF GRANT.**—*The Secretary*
12 *shall determine the amount of a grant to a State under*
13 *this section based on the population of the State as com-*
14 *pared to the population of all States receiving grants under*
15 *this section. The Secretary shall make the grant for a period*
16 *of 3 years.*

17 **(d) USE OF FUNDS.**—

18 **(1) IN GENERAL.**—*A State shall use amounts*
19 *provided under a grant awarded under this section to*
20 *provide assistance to small businesses (or consortia*
21 *formed in accordance with paragraph (3)) located in*
22 *the State to enable the small businesses (or consortia)*
23 *to establish and operate child care programs. Such as-*
24 *sistance may include—*

1 (A) *technical assistance in the establishment*
2 *of a child care program;*

3 (B) *assistance for the startup costs related*
4 *to a child care program;*

5 (C) *assistance for the training of child care*
6 *providers;*

7 (D) *scholarships for low-income wage earn-*
8 *ers;*

9 (E) *the provision of services to care for sick*
10 *children or to provide care to school-aged chil-*
11 *dren;*

12 (F) *the entering into of contracts with local*
13 *resource and referral organizations or local*
14 *health departments;*

15 (G) *assistance for care for children with*
16 *disabilities;*

17 (H) *payment of expenses for renovation or*
18 *operation of a child care facility; or*

19 (I) *assistance for any other activity deter-*
20 *mined appropriate by the State.*

21 (2) *APPLICATION.—In order for a small business*
22 *or consortium to be eligible to receive assistance from*
23 *a State under this section, the small business involved*
24 *shall prepare and submit to the State an application*

1 *at such time, in such manner, and containing such*
2 *information as the State may require.*

3 (3) *PREFERENCE.—*

4 (A) *IN GENERAL.—In providing assistance*
5 *under this section, a State shall give priority to*
6 *an applicant that desires to form a consortium*
7 *to provide child care in a geographic area within*
8 *the State where such care is not generally avail-*
9 *able or accessible.*

10 (B) *CONSORTIUM.—For purposes of sub-*
11 *paragraph (A), a consortium shall be made up*
12 *of 2 or more entities that shall include small*
13 *businesses and that may include large businesses,*
14 *nonprofit agencies or organizations, local govern-*
15 *ments, or other appropriate entities.*

16 (4) *LIMITATIONS.—With respect to grant funds*
17 *received under this section, a State may not provide*
18 *in excess of \$500,000 in assistance from such funds*
19 *to any single applicant.*

20 (e) *MATCHING REQUIREMENT.—To be eligible to re-*
21 *ceive a grant under this section, a State shall provide assur-*
22 *ances to the Secretary that, with respect to the costs to be*
23 *incurred by a covered entity receiving assistance in car-*
24 *rying out activities under this section, the covered entity*
25 *will make available (directly or through donations from*

1 *public or private entities) non-Federal contributions to such*
2 *costs in an amount equal to—*

3 *(1) for the first fiscal year in which the covered*
4 *entity receives such assistance, not less than 50 per-*
5 *cent of such costs (\$1 for each \$1 of assistance pro-*
6 *vided to the covered entity under the grant);*

7 *(2) for the second fiscal year in which the cov-*
8 *ered entity receives such assistance, not less than 66²/₃*
9 *percent of such costs (\$2 for each \$1 of assistance pro-*
10 *vided to the covered entity under the grant); and*

11 *(3) for the third fiscal year in which the covered*
12 *entity receives such assistance, not less than 75 per-*
13 *cent of such costs (\$3 for each \$1 of assistance pro-*
14 *vided to the covered entity under the grant).*

15 *(f) REQUIREMENTS OF PROVIDERS.—To be eligible to*
16 *receive assistance under a grant awarded under this section,*
17 *a child care provider—*

18 *(1) who receives assistance from a State shall*
19 *comply with all applicable State and local licensing*
20 *and regulatory requirements and all applicable health*
21 *and safety standards in effect in the State; and*

22 *(2) who receives assistance from an Indian tribe*
23 *or tribal organization shall comply with all applica-*
24 *ble regulatory standards.*

1 (g) *STATE-LEVEL ACTIVITIES.*—A State may not re-
2 tain more than 3 percent of the amount described in sub-
3 section (c) for State administration and other State-level
4 activities.

5 (h) *ADMINISTRATION.*—

6 (1) *STATE RESPONSIBILITY.*—A State shall have
7 responsibility for administering a grant awarded for
8 the State under this section and for monitoring cov-
9 ered entities that receive assistance under such grant.

10 (2) *AUDITS.*—A State shall require each covered
11 entity receiving assistance under the grant awarded
12 under this section to conduct an annual audit with
13 respect to the activities of the covered entity. Such au-
14 dits shall be submitted to the State.

15 (3) *MISUSE OF FUNDS.*—

16 (A) *REPAYMENT.*—If the State determines,
17 through an audit or otherwise, that a covered en-
18 tity receiving assistance under a grant awarded
19 under this section has misused the assistance, the
20 State shall notify the Secretary of the misuse.
21 The Secretary, upon such a notification, may
22 seek from such a covered entity the repayment of
23 an amount equal to the amount of any such mis-
24 used assistance plus interest.

1 (B) *APPEALS PROCESS.*—*The Secretary*
2 *shall by regulation provide for an appeals proc-*
3 *ess with respect to repayments under this para-*
4 *graph.*

5 (i) *REPORTING REQUIREMENTS.*—

6 (1) *2-YEAR STUDY.*—

7 (A) *IN GENERAL.*—*Not later than 2 years*
8 *after the date on which the Secretary first*
9 *awards grants under this section, the Secretary*
10 *shall conduct a study to determine—*

11 (i) *the capacity of covered entities to*
12 *meet the child care needs of communities*
13 *within States;*

14 (ii) *the kinds of consortia that are*
15 *being formed with respect to child care at*
16 *the local level to carry out programs funded*
17 *under this section; and*

18 (iii) *who is using the programs funded*
19 *under this section and the income levels of*
20 *such individuals.*

21 (B) *REPORT.*—*Not later than 28 months*
22 *after the date on which the Secretary first*
23 *awards grants under this section, the Secretary*
24 *shall prepare and submit to the appropriate*
25 *committees of Congress a report on the results of*

1 *the study conducted in accordance with subpara-*
2 *graph (A).*

3 (2) *4-YEAR STUDY.—*

4 (A) *IN GENERAL.—Not later than 4 years*
5 *after the date on which the Secretary first*
6 *awards grants under this section, the Secretary*
7 *shall conduct a study to determine the number of*
8 *child care facilities that are funded through cov-*
9 *ered entities that received assistance through a*
10 *grant awarded under this section and that re-*
11 *main in operation, and the extent to which such*
12 *facilities are meeting the child care needs of the*
13 *individuals served by such facilities.*

14 (B) *REPORT.—Not later than 52 months*
15 *after the date on which the Secretary first*
16 *awards grants under this section, the Secretary*
17 *shall prepare and submit to the appropriate*
18 *committees of Congress a report on the results of*
19 *the study conducted in accordance with subpara-*
20 *graph (A).*

21 (j) *DEFINITIONS.—In this section:*

22 (1) *COVERED ENTITY.—The term “covered enti-*
23 *ty” means a small business or a consortium formed*
24 *in accordance with subsection (d)(3).*

1 (2) *INDIAN COMMUNITY.*—*The term “Indian*
2 *community” means a community served by an In-*
3 *dian tribe or tribal organization.*

4 (3) *INDIAN TRIBE; TRIBAL ORGANIZATION.*—*The*
5 *terms “Indian tribe” and “tribal organization” have*
6 *the meanings given the terms in section 658P of the*
7 *Child Care and Development Block Grant Act of 1990*
8 *(42 U.S.C. 9858n).*

9 (4) *SMALL BUSINESS.*—*The term “small busi-*
10 *ness” means an employer who employed an average*
11 *of at least 2 but not more than 50 employees on the*
12 *business days during the preceding calendar year.*

13 (5) *STATE.*—*The term “State” has the meaning*
14 *given the term in section 658P of the Child Care and*
15 *Development Block Grant Act of 1990 (42 U.S.C.*
16 *9858n).*

17 (k) *APPLICATION TO INDIAN TRIBES AND TRIBAL OR-*
18 *GANIZATIONS.*—*In this section:*

19 (1) *IN GENERAL.*—*Except as provided in sub-*
20 *section (f)(1), and in paragraphs (2) and (3), the*
21 *term “State” includes an Indian tribe or tribal orga-*
22 *nization.*

23 (2) *GEOGRAPHIC REFERENCES.*—*The term*
24 *“State” includes an Indian community in subsections*
25 *(c) (the second and third place the term appears),*

1 (d)(1) (the second place the term appears), (d)(3)(A)
2 (the second place the term appears), and (i)(1)(A)(i).

3 (3) *STATE-LEVEL ACTIVITIES.*—The term “State-
4 level activities” includes activities at the tribal level.

5 (l) *AUTHORIZATION OF APPROPRIATIONS.*—

6 (1) *IN GENERAL.*—There is authorized to be ap-
7 propriated to carry out this section, \$50,000,000 for
8 the period of fiscal years 2008 through 2012.

9 (2) *STUDIES AND ADMINISTRATION.*—With re-
10 spect to the total amount appropriated for such pe-
11 riod in accordance with this subsection, not more
12 than \$2,500,000 of that amount may be used for ex-
13 penditures related to conducting studies required
14 under, and the administration of, this section.

15 (m) *TERMINATION OF PROGRAM.*—The program estab-
16 lished under subsection (a) shall terminate on September
17 30, 2012.

18 **SEC. 243. STUDY OF UNIVERSAL USE OF ADVANCE PAY-**
19 **MENT OF EARNED INCOME CREDIT.**

20 Not later than 180 days after the date of the enactment
21 of this Act, the Secretary of the Treasury shall report to
22 Congress on a study of the benefits, costs, risks, and barriers
23 to workers and to businesses (with a special emphasis on
24 small businesses) if the advance earned income tax credit
25 program (under section 3507 of the Internal Revenue Code

1 of 1986) included all recipients of the earned income tax
2 credit (under section 32 of such Code) and what steps would
3 be necessary to implement such inclusion.

4 **SEC. 244. SENSE OF THE SENATE CONCERNING PERSONAL**
5 **SAVINGS.**

6 (a) *FINDINGS.*—*The Senate finds that—*

7 (1) *the personal saving rate in the United States*
8 *is at its lowest point since the Great Depression, with*
9 *the rate having fallen into negative territory;*

10 (2) *the United States ranks at the bottom of the*
11 *Group of Twenty (G–20) nations in terms of net na-*
12 *tional saving rate;*

13 (3) *approximately half of all the working people*
14 *of the United States work for an employer that does*
15 *not offer any kind of retirement plan;*

16 (4) *existing savings policies enacted by Congress*
17 *provide limited incentives to save for low- and mod-*
18 *erate-income families; and*

19 (5) *the Social Security program was enacted to*
20 *serve as the safest component of a retirement system*
21 *that also includes employer-sponsored retirement*
22 *plans and personal savings.*

23 (b) *SENSE OF THE SENATE.*—*It is the sense of the Sen-*
24 *ate that—*

1 (1) *Congress should enact policies that promote*
 2 *savings vehicles for retirement that are simple, easily*
 3 *accessible and provide adequate financial security for*
 4 *all the people of the United States;*

5 (2) *it is important to begin retirement saving as*
 6 *early as possible to take full advantage of the power*
 7 *of compound interest; and*

8 (3) *regularly contributing money to a finan-*
 9 *cially-sound investment account is one important*
 10 *method for helping to achieve one's retirement goals.*

11 **SEC. 245. RENEWAL GRANTS FOR WOMEN'S BUSINESS CEN-**

12 **TERS.**

13 (a) *IN GENERAL.*—*Section 29 of the Small Business*
 14 *Act (15 U.S.C. 656) is amended by adding at the end the*
 15 *following:*

16 “(m) *CONTINUED FUNDING FOR CENTERS.*—

17 “(1) *IN GENERAL.*—*A nonprofit organization de-*
 18 *scribed in paragraph (2) shall be eligible to receive,*
 19 *subject to paragraph (3), a 3-year grant under this*
 20 *subsection.*

21 “(2) *APPLICABILITY.*—*A nonprofit organization*
 22 *described in this paragraph is a nonprofit organiza-*
 23 *tion that has received funding under subsection (b) or*
 24 *(l).*

25 “(3) *APPLICATION AND APPROVAL CRITERIA.*—

1 “(A) *CRITERIA.*—Subject to subparagraph
2 (B), the Administrator shall develop and publish
3 criteria for the consideration and approval of
4 applications by nonprofit organizations under
5 this subsection.

6 “(B) *CONTENTS.*—Except as otherwise pro-
7 vided in this subsection, the conditions for par-
8 ticipation in the grant program under this sub-
9 section shall be the same as the conditions for
10 participation in the program under subsection
11 (l), as in effect on the date of enactment of this
12 Act.

13 “(C) *NOTIFICATION.*—Not later than 60
14 days after the date of the deadline to submit ap-
15 plications for each fiscal year, the Administrator
16 shall approve or deny any application under
17 this subsection and notify the applicant for each
18 such application.

19 “(4) *AWARD OF GRANTS.*—

20 “(A) *IN GENERAL.*—Subject to the avail-
21 ability of appropriations, the Administrator
22 shall make a grant for the Federal share of the
23 cost of activities described in the application to
24 each applicant approved under this subsection.

1 “(B) *AMOUNT*.—A grant under this sub-
2 section shall be for not more than \$150,000, for
3 each year of that grant.

4 “(C) *FEDERAL SHARE*.—The Federal share
5 under this subsection shall be not more than 50
6 percent.

7 “(D) *PRIORITY*.—In allocating funds made
8 available for grants under this section, the Ad-
9 ministrators shall give applications under this
10 subsection or subsection (l) priority over first-
11 time applications under subsection (b).

12 “(5) *RENEWAL*.—

13 “(A) *IN GENERAL*.—The Administrator
14 may renew a grant under this subsection for ad-
15 ditional 3-year periods, if the nonprofit organi-
16 zation submits an application for such renewal
17 at such time, in such manner, and accompanied
18 by such information as the Administrator may
19 establish.

20 “(B) *UNLIMITED RENEWALS*.—There shall
21 be no limitation on the number of times a grant
22 may be renewed under subparagraph (A).

23 “(n) *PRIVACY REQUIREMENTS*.—

24 “(1) *IN GENERAL*.—A women’s business center
25 may not disclose the name, address, or telephone

1 *number of any individual or small business concern*
2 *receiving assistance under this section without the*
3 *consent of such individual or small business concern,*
4 *unless—*

5 *“(A) the Administrator is ordered to make*
6 *such a disclosure by a court in any civil or*
7 *criminal enforcement action initiated by a Fed-*
8 *eral or State agency; or*

9 *“(B) the Administrator considers such a*
10 *disclosure to be necessary for the purpose of con-*
11 *ducting a financial audit of a women’s business*
12 *center, but a disclosure under this subparagraph*
13 *shall be limited to the information necessary for*
14 *such audit.*

15 *“(2) ADMINISTRATION USE OF INFORMATION.—*
16 *This subsection shall not—*

17 *“(A) restrict Administration access to pro-*
18 *gram activity data; or*

19 *“(B) prevent the Administration from using*
20 *client information (other than the information*
21 *described in subparagraph (A)) to conduct client*
22 *surveys.*

23 *“(3) REGULATIONS.—The Administrator shall*
24 *issue regulations to establish standards for requiring*

1 disclosures during a financial audit under paragraph
2 (1)(B).”.

3 (b) *REPEAL.*—Section 29(l) of the Small Business Act
4 (15 U.S.C. 656(l)) is repealed effective October 1 of the first
5 full fiscal year after the date of enactment of this Act.

6 (c) *TRANSITIONAL RULE.*—Notwithstanding any other
7 provision of law, a grant or cooperative agreement that was
8 awarded under subsection (l) of section 29 of the Small
9 Business Act (15 U.S.C. 656), on or before the day before
10 the date described in subsection (b) of this section, shall re-
11 main in full force and effect under the terms, and for the
12 duration, of such grant or agreement.

13 **SEC. 246. REPORTS ON ACQUISITIONS OF ARTICLES, MATE-**
14 **RIALS, AND SUPPLIES MANUFACTURED OUT-**
15 **SIDE THE UNITED STATES.**

16 Section 2 of the Buy American Act (41 U.S.C. 10a)
17 is amended—

18 (1) by striking “Notwithstanding” and inserting
19 the following:

20 “(a) *IN GENERAL.*—Notwithstanding”; and

21 (2) by adding at the end the following:

22 “(b) *REPORTS.*—

23 “(1) *IN GENERAL.*—Not later than 180 days
24 after the end of each of fiscal years 2007 through
25 2011, the head of each Federal agency shall submit to

1 *the Committee on Homeland Security and Govern-*
2 *mental Affairs of the Senate and the Committee on*
3 *Oversight and Government Reform of the House of*
4 *Representatives a report on the amount of the acqui-*
5 *sitions made by the agency in that fiscal year of arti-*
6 *cles, materials, or supplies purchased from entities*
7 *that manufacture the articles, materials, or supplies*
8 *outside of the United States.*

9 “(2) *CONTENTS OF REPORT.*—*The report re-*
10 *quired by paragraph (1) shall separately include, for*
11 *the fiscal year covered by such report—*

12 “(A) *the dollar value of any articles, mate-*
13 *rials, or supplies that were manufactured outside*
14 *the United States;*

15 “(B) *an itemized list of all waivers granted*
16 *with respect to such articles, materials, or sup-*
17 *plies under this Act, and a citation to the treaty,*
18 *international agreement, or other law under*
19 *which each waiver was granted;*

20 “(C) *if any articles, materials, or supplies*
21 *were acquired from entities that manufacture ar-*
22 *ticles, materials, or supplies outside the United*
23 *States, the specific exception under this section*
24 *that was used to purchase such articles, mate-*
25 *rials, or supplies; and*

1 “(D) a summary of—

2 “(i) the total procurement funds ex-
3 pended on articles, materials, and supplies
4 manufactured inside the United States; and

5 “(ii) the total procurement funds ex-
6 pended on articles, materials, and supplies
7 manufactured outside the United States.

8 “(3) *PUBLIC AVAILABILITY.*—*The head of each*
9 *Federal agency submitting a report under paragraph*
10 *(1) shall make the report publicly available to the*
11 *maximum extent practicable.*

12 “(4) *EXCEPTION FOR INTELLIGENCE COMMU-*
13 *NITY.*—*This subsection shall not apply to acquisitions*
14 *made by an agency, or component thereof, that is an*
15 *element of the intelligence community as specified in,*
16 *or designated under, section 3(4) of the National Se-*
17 *curity Act of 1947 (50 U.S.C. 401a(4)).”.*

18 **SEC. 247. SENSE OF THE SENATE REGARDING REPEAL OF**
19 **1993 INCOME TAX INCREASE ON SOCIAL SE-**
20 **CURITY BENEFITS.**

21 *It is the sense of the Senate that Congress should repeal*
22 *the 1993 tax increase on Social Security benefits and elimi-*
23 *nate wasteful spending, such as spending on unnecessary*
24 *tax loopholes, in order to fully offset the cost of such repeal*

1 *and avoid forcing taxpayers to pay substantially more in-*
 2 *terest to foreign creditors.*

3 **SEC. 248. SENSE OF THE SENATE REGARDING PERMANENT**
 4 **TAX INCENTIVES TO MAKE EDUCATION MORE**
 5 **AFFORDABLE AND MORE ACCESSIBLE FOR**
 6 **AMERICAN FAMILIES.**

7 *It is the sense of the Senate that Congress should make*
 8 *permanent the tax incentives to make education more af-*
 9 *fordable and more accessible for American families and*
 10 *eliminate wasteful spending, such as spending on unneces-*
 11 *sary tax loopholes, in order to fully offset the cost of such*
 12 *incentives and avoid forcing taxpayers to pay substantially*
 13 *more interest to foreign creditors.*

14 **SEC. 249. RESPONSIBLE GOVERNMENT CONTRACTOR RE-**
 15 **QUIREMENTS.**

16 *Section 274A(e) of the Immigration and Nationality*
 17 *Act (8 U.S.C. 1324a(e)) is amended by adding at the end*
 18 *the following new paragraph:*

19 *“(10) PROHIBITION ON AWARD OF GOVERNMENT*
 20 *CONTRACTS, GRANTS, AND AGREEMENTS.—*

21 *“(A) EMPLOYERS WITH NO CONTRACTS,*
 22 *GRANTS, OR AGREEMENTS.—*

23 *“(i) IN GENERAL.—Subject to clause*
 24 *(iii) and subparagraph (C), if an employer*
 25 *who does not hold a Federal contract, grant,*

1 *or cooperative agreement is determined to*
2 *have violated this section, the employer shall*
3 *be debarred from the receipt of a Federal*
4 *contract, grant, or cooperative agreement*
5 *for a period of 7 years.*

6 “(ii) *PLACEMENT ON EXCLUDED*
7 *LIST.—The Secretary of Homeland Security*
8 *or the Attorney General shall advise the Ad-*
9 *ministrator of General Services of the de-*
10 *barment of an employer under clause (i)*
11 *and the Administrator of General Services*
12 *shall list the employer on the List of Parties*
13 *Excluded from Federal Procurement and*
14 *Nonprocurement Programs for a period of 7*
15 *years.*

16 “(iii) *WAIVER.—*

17 “(I) *AUTHORITY.—The Adminis-*
18 *trator of General Services, in consulta-*
19 *tion with the Secretary of Homeland*
20 *Security and the Attorney General,*
21 *may waive operation of clause (i) or*
22 *may limit the duration or scope of a*
23 *debarment under clause (i) if such*
24 *waiver or limitation is necessary to*

1 *national defense or in the interest of*
2 *national security.*

3 “(II) NOTIFICATION TO CON-
4 GRESS.—*If the Administrator grants a*
5 *waiver or limitation described in sub-*
6 *clause (I), the Administrator shall sub-*
7 *mit to each member of the Committee*
8 *on the Judiciary of the Senate and of*
9 *the Committee on the Judiciary of the*
10 *House of Representatives immediate*
11 *notice of such waiver or limitation.*

12 “(III) PROHIBITION ON JUDICIAL
13 REVIEW.—*The decision of whether to*
14 *debar or take alternative action under*
15 *this clause shall not be judicially re-*
16 *viewed.*

17 “(B) EMPLOYERS WITH CONTRACTS,
18 GRANTS, OR AGREEMENTS.—

19 “(i) IN GENERAL.—*Subject to clause*
20 *(iii) and subclause (C), an employer who*
21 *holds a Federal contract, grant, or coopera-*
22 *tive agreement and is determined to have*
23 *violated this section shall be debarred from*
24 *the receipt of new Federal contracts, grants,*

1 or cooperative agreements for a period of 10
2 years.

3 “(ii) *NOTICE TO AGENCIES.*—Prior to
4 debarring the employer under clause (i), the
5 Secretary of Homeland Security, in co-
6 operation with the Administrator of Gen-
7 eral Services, shall advise any agency or de-
8 partment holding a contract, grant, or coop-
9 erative agreement with the employer of the
10 Government’s intention to debar the em-
11 ployer from the receipt of new Federal con-
12 tracts, grants, or cooperative agreements for
13 a period of 10 years.

14 “(iii) *WAIVER.*—

15 “(I) *AUTHORITY.*—After consider-
16 ation of the views of any agency or de-
17 partment that holds a contract, grant,
18 or cooperative agreement with the em-
19 ployer, the Administrator of General
20 Services, in consultation with the Sec-
21 retary of Homeland Security and the
22 Attorney General, may waive oper-
23 ation of clause (i) or may limit the du-
24 ration or scope of the debarment under
25 clause (i) if such waiver or limitation

1 *is necessary to the national defense or*
2 *in the interest of national security.*

3 “(II) NOTIFICATION TO CON-
4 GRESS.—*If the Administrator grants a*
5 *waiver or limitation described in sub-*
6 *clause (I), the Administrator shall sub-*
7 *mit to each member of the Committee*
8 *on the Judiciary of the Senate and of*
9 *the Committee on the Judiciary of the*
10 *House of Representatives immediate*
11 *notice of such waiver or limitation.*

12 “(III) PROHIBITION ON JUDICIAL
13 REVIEW.—*The decision of whether to*
14 *debar or take alternate action under*
15 *this clause shall not be judicially re-*
16 *viewed.*

17 “(C) EXEMPTION FROM PENALTY FOR EM-
18 PLOYERS PARTICIPATING IN THE BASIC PILOT
19 PROGRAM.—*In the case of imposition on an em-*
20 *ployer of a debarment from the receipt of a Fed-*
21 *eral contract, grant, or cooperative agreement*
22 *under subparagraph (A) or (B), that penalty*
23 *shall be waived if the employer establishes that*
24 *the employer was voluntarily participating in*
25 *the basic pilot program under section 403(a) of*

1 *the Illegal Immigration Reform and Immigrant*
2 *Responsibility Act of 1996 (8 U.S.C. 1324a note)*
3 *at the time of the violations of this section that*
4 *resulted in the debarment.”.*

Attest:

Secretary.

110TH CONGRESS
1ST SESSION

H. R. 2

AMENDMENT