

TAX REFORM ACT OF 2014 DISCUSSION DRAFT

AS RELEASED ON FEBRUARY 26, 2014

Statutory Text and Section-by-Section Summary
Prepared by the Committee on Ways and Means
Majority Tax Staff



PRINTED FOR THE USE OF THE COMMITTEE ON
WAYS AND MEANS BY ITS STAFF

113TH CONGRESS }
2nd Session }

COMMITTEE PRINT

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**TAX REFORM ACT OF 2014
DISCUSSION DRAFT**

AS RELEASED ON FEBRUARY 26, 2014

Statutory Text

[DISCUSSION DRAFT]

FEBRUARY 21, 2014

113TH CONGRESS
2D SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to provide for comprehensive tax reform.

IN THE HOUSE OF REPRESENTATIVES

Mr. CAMP introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide for comprehensive tax reform.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tax Reform Act of 2014”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
2 shall be considered to be made to a section or other provi-
3 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—TAX REFORM FOR INDIVIDUALS

Subtitle A—Individual Income Tax Rate Reform

Sec. 1001. Simplification of individual income tax rates.

Sec. 1002. Deduction for adjusted net capital gain.

Sec. 1003. Conforming amendments related to simplification of individual in-
come tax rates.

Subtitle B—Simplification of Tax Benefits for Families

Sec. 1101. Standard deduction.

Sec. 1102. Increase and expansion of child tax credit.

Sec. 1103. Modification of earned income tax credit.

Sec. 1104. Repeal of deduction for personal exemptions.

Subtitle C—Simplification of Education Incentives

Sec. 1201. American opportunity tax credit.

Sec. 1202. Expansion of Pell Grant exclusion from gross income.

Sec. 1203. Repeal of exclusion of income from United States savings bonds
used to pay higher education tuition and fees.

Sec. 1204. Repeal of deduction for interest on education loans.

Sec. 1205. Repeal of deduction for qualified tuition and related expenses.

Sec. 1206. No new contributions to Coverdell education savings accounts.

Sec. 1207. Repeal of exclusion for discharge of student loan indebtedness.

Sec. 1208. Repeal of exclusion for qualified tuition reductions.

Sec. 1209. Repeal of exclusion for education assistance programs.

Sec. 1210. Repeal of exception to 10-percent penalty for higher education ex-
penses.

Subtitle D—Repeal of Certain Credits for Individuals

Sec. 1301. Repeal of dependent care credit.

Sec. 1302. Repeal of credit for adoption expenses.

Sec. 1303. Repeal of credit for nonbusiness energy property.

Sec. 1304. Repeal of credit for residential energy efficient property.

Sec. 1305. Repeal of credit for qualified electric vehicles.

Sec. 1306. Repeal of alternative motor vehicle credit.

Sec. 1307. Repeal of alternative fuel vehicle refueling property credit.

Sec. 1308. Repeal of credit for new qualified plug-in electric drive motor vehi-
cles.

Sec. 1309. Repeal of credit for health insurance costs of eligible individuals.

Sec. 1310. Repeal of first-time homebuyer credit.

Subtitle E—Deductions, Exclusions, and Certain Other Provisions

- Sec. 1401. Exclusion of gain from sale of a principal residence.
- Sec. 1402. Mortgage interest.
- Sec. 1403. Charitable contributions.
- Sec. 1404. Denial of deduction for expenses attributable to the trade or business of being an employee.
- Sec. 1405. Repeal of deduction for taxes not paid or accrued in a trade or business.
- Sec. 1406. Repeal of deduction for personal casualty losses.
- Sec. 1407. Limitation on wagering losses.
- Sec. 1408. Repeal of deduction for tax preparation expenses.
- Sec. 1409. Repeal of deduction for medical expenses.
- Sec. 1410. Repeal of disqualification of expenses for over-the-counter drugs under certain accounts and arrangements.
- Sec. 1411. Repeal of deduction for alimony payments and corresponding inclusion in gross income.
- Sec. 1412. Repeal of deduction for moving expenses.
- Sec. 1413. Termination of deduction and exclusions for contributions to medical savings accounts.
- Sec. 1414. Repeal of 2-percent floor on miscellaneous itemized deductions.
- Sec. 1415. Repeal of overall limitation on itemized deductions.
- Sec. 1416. Deduction for amortizable bond premium allowed in determining adjusted gross income.
- Sec. 1417. Repeal of exclusion, etc., for employee achievement awards.
- Sec. 1418. Clarification of special rule for certain governmental plans.
- Sec. 1419. Limitation on exclusion for employer-provided housing.
- Sec. 1420. Fringe benefits.
- Sec. 1421. Repeal of exclusion of net unrealized appreciation in employer securities.
- Sec. 1422. Consistent basis reporting between estate and person acquiring property from decedent.

Subtitle F—Employment Tax Modifications

- Sec. 1501. Modifications of deduction for Social Security taxes in computing net earnings from self-employment.
- Sec. 1502. Determination of net earnings from self-employment.
- Sec. 1503. Repeal of exemption from FICA taxes for certain foreign workers.
- Sec. 1504. Repeal of exemption from FICA taxes for certain students.
- Sec. 1505. Override of Treasury guidance providing that certain employer-provided supplemental unemployment benefits are not subject to employment taxes.
- Sec. 1506. Certified professional employer organizations.

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- Sec. 1602. No new contributions to traditional IRAs.
- Sec. 1603. Inflation adjustment for Roth IRA contributions.
- Sec. 1604. Repeal of special rule permitting recharacterization of Roth IRA contributions as traditional IRA contributions.
- Sec. 1605. Repeal of exception to 10-percent penalty for first home purchases.

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- Sec. 1611. Termination for new SEPs.
- Sec. 1612. Termination for new SIMPLE 401(k)s.
- Sec. 1613. Rules related to designated Roth contributions.
- Sec. 1614. Modifications of required distribution rules for pension plans.
- Sec. 1615. Reduction in minimum age for allowable in-service distributions.
- Sec. 1616. Modification of rules governing hardship distributions.
- Sec. 1617. Extended rollover period for the rollover of plan loan offset amounts in certain cases.
- Sec. 1618. Coordination of contribution limitations for 403(b) plans and governmental 457(b) plans.
- Sec. 1619. Application of 10-percent early distribution tax to governmental 457 plans.
- Sec. 1620. Inflation adjustments for qualified plan benefit and contribution limitations.
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- Sec. 1622. Inflation adjustments for SIMPLE retirement accounts.
- Sec. 1623. Inflation adjustments for catch-up contributions for certain employer plans.
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Subtitle H—Certain Provisions Related to Members of Indian Tribes

- Sec. 1701. Indian general welfare benefits.
- Sec. 1702. Tribal Advisory Committee.
- Sec. 1703. Other relief for Indian tribes.

TITLE II—ALTERNATIVE MINIMUM TAX REPEAL

- Sec. 2001. Repeal of alternative minimum tax.

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- Sec. 3001. 25-percent corporate tax rate.

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- Sec. 3105. Repeal of amortization of pollution control facilities.
- Sec. 3106. Net operating loss deduction.
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- Sec. 3111. Expensing certain depreciable business assets for small business.
- Sec. 3112. Repeal of election to expense certain refineries.
- Sec. 3113. Repeal of deduction for energy efficient commercial buildings.
- Sec. 3114. Repeal of election to expense advanced mine safety equipment.
- Sec. 3115. Repeal of deduction for expenditures by farmers for fertilizer, etc.
- Sec. 3116. Repeal of special treatment of certain qualified film and television productions.

- Sec. 3117. Repeal of special rules for recoveries of damages of antitrust violations, etc.
- Sec. 3118. Treatment of reforestation expenditures.
- Sec. 3119. 20-year amortization of goodwill and certain other intangibles.
- Sec. 3120. Treatment of environmental remediation costs.
- Sec. 3121. Repeal of expensing of qualified disaster expenses.
- Sec. 3122. Phaseout and repeal of deduction for income attributable to domestic production activities.
- Sec. 3123. Unification of deduction for organizational expenditures.
- Sec. 3124. Prevention of arbitrage of deductible interest expense and tax-exempt interest income.
- Sec. 3125. Prevention of transfer of certain losses from tax indifferent parties.
- Sec. 3126. Entertainment, etc. expenses.
- Sec. 3127. Repeal of limitation on corporate acquisition indebtedness.
- Sec. 3128. Denial of deductions and credits for expenditures in illegal businesses.
- Sec. 3129. Limitation on deduction for FDIC premiums.
- Sec. 3130. Repeal of percentage depletion.
- Sec. 3131. Repeal of passive activity exception for working interests in oil and gas property.
- Sec. 3132. Repeal of special rules for gain or loss on timber, coal, or domestic iron ore.
- Sec. 3133. Repeal of like-kind exchanges.
- Sec. 3134. Restriction on trade or business property treated as similar or related in service to involuntarily converted property in disaster areas.
- Sec. 3135. Repeal of rollover of publicly traded securities gain into specialized small business investment companies.
- Sec. 3136. Termination of special rules for gain from certain small business stock.
- Sec. 3137. Certain self-created property not treated as a capital asset.
- Sec. 3138. Repeal of special rule for sale or exchange of patents.
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- Sec. 3140. Common deduction conforming amendments.

Subtitle C—Reform of Business Credits

- Sec. 3201. Repeal of credit for alcohol, etc., used as fuel.
- Sec. 3202. Repeal of credit for biodiesel and renewable diesel used as fuel.
- Sec. 3203. Research credit modified and made permanent.
- Sec. 3204. Low-income housing tax credit.
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- Sec. 3207. Repeal of Indian employment credit.
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- Sec. 3210. Repeal of credit for small employer pension plan startup costs.
- Sec. 3211. Repeal of employer-provided child care credit.
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- Sec. 3215. Repeal of credit for production from advanced nuclear power facilities.
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- Sec. 3302. Rules for determining whether taxpayer has adopted a method of accounting.
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- Sec. 3502. Net operating losses of life insurance companies.
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- Sec. 3635. Limitation on fixed percentage rent and interest exceptions for REIT income tests.
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- Sec. 3637. Authority for alternative remedies to address certain REIT distribution failures.
- Sec. 3638. Limitations on designation of dividends by REITs.
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- Sec. 3640. Debt instruments of publicly offered REITs and mortgages treated as real estate assets.
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- Sec. 3642. Hedging provisions.
- Sec. 3643. Modification of REIT earnings and profits calculation to avoid duplicate taxation.
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- Sec. 4103. Passive category income expanded to include other mobile income.
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- Sec. 4211. Foreign intangible income subject to taxation at reduced rate; intangible income treated as subpart F income.
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- Sec. 5001. Clarification of unrelated business income tax treatment of entities treated as exempt from taxation under section 501(a).
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- Sec. 8011. Great plains conservation program.
- Sec. 8012. State legislators' travel expenses away from home.
- Sec. 8013. Treble damage payments under the antitrust law.
- Sec. 8014. Phase-in of limitation on investment interest.
- Sec. 8015. Charitable, etc., contributions and gifts.
- Sec. 8016. Amortizable bond premium.
- Sec. 8017. Repeal of deduction for clean-fuel vehicles and certain refueling property.
- Sec. 8018. Repeal of deduction for capital costs incurred in complying with environmental protection agency sulfur regulations.
- Sec. 8019. Activities not engaged in for profit.
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- Sec. 8021. Acquisitions made to evade or avoid income tax.
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- Sec. 8027. Transition rules.
- Sec. 8028. Limitation on deductions for certain farming.
- Sec. 8029. Deductions limited to amount at risk.
- Sec. 8030. Passive activity losses and credits limited.
- Sec. 8031. Adjustments required by changes in method of accounting.
- Sec. 8032. Exemption from tax on corporations, certain trusts, etc.

- Sec. 8033. Requirements for exemption.
- Sec. 8034. Repeal of special treatment for religious broadcasting company.
- Sec. 8035. Repeal of exclusion of gain or loss from disposition of brownfield property.
- Sec. 8036. Accumulated taxable income.
- Sec. 8037. Certain provisions related to depletion.
- Sec. 8038. Amounts received by surviving annuitant under joint and survivor annuity contract.
- Sec. 8039. Income taxes of members of armed forces on death.
- Sec. 8040. Special rules for computing reserves.
- Sec. 8041. Insurance company taxable income.
- Sec. 8042. Capitalization of certain policy acquisition expenses.
- Sec. 8043. Repeal of provision on expatriation to avoid tax.
- Sec. 8044. Repeal of certain transition rules on income from sources without United States.
- Sec. 8045. Repeal of Puerto Rico and possession tax credit.
- Sec. 8046. Basis of property acquired from decedent.
- Sec. 8047. Property on which lessee has made improvements.
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- Sec. 8055. Transition rules related to the treatment of amounts received on retirement or sale or exchange of debt instruments.
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- Sec. 8058. Amount and method of adjustment.
- Sec. 8059. Old-age, survivors, and disability insurance.
- Sec. 8060. Hospital insurance.
- Sec. 8061. Ministers, members of religious orders, and christian science practitioners.
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- Sec. 8063. Credit for state death taxes.
- Sec. 8064. Family-owned business interest.
- Sec. 8065. Property within the united states.
- Sec. 8066. Repeal of deadwood provisions relating to employment taxes.
- Sec. 8067. Luxury passenger automobiles.
- Sec. 8068. Transportation by air.
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- Sec. 8072. Returns.
- Sec. 8073. Information returns.
- Sec. 8074. Abatements.
- Sec. 8075. Failure by corporation to pay estimated income tax.
- Sec. 8076. Repeal of 2008 recovery rebates.
- Sec. 8077. Repeal of advance payment of portion of increased child credit for 2003.
- Sec. 8078. Repeal of provisions related to COBRA premium assistance.

- Sec. 8079. Retirement.
- Sec. 8080. Annuities to surviving spouses and dependent children of judges.
- Sec. 8081. Merchant marine capital construction funds.
- Sec. 8082. Valuation tables.
- Sec. 8083. Definition of employee.
- Sec. 8084. Effective date.

Subtitle B—Conforming Amendments Related to Multiple Sections

- Sec. 8101. Conforming amendments related to multiple sections.

1 **TITLE I—TAX REFORM FOR**
2 **INDIVIDUALS**
3 **Subtitle A—Individual Income Tax**
4 **Rate Reform**

5 **SEC. 1001. SIMPLIFICATION OF INDIVIDUAL INCOME TAX**
6 **RATES.**

7 (a) IN GENERAL.—Section 1 is amended to read as
8 follows:

9 **“SEC. 1. TAX IMPOSED.**

10 “(a) IN GENERAL.—There is hereby imposed on the
11 income of every individual a tax equal to the sum of—

12 “(1) 10 PERCENT BRACKET.—10 percent of so
13 much of the taxable income as does not exceed the
14 25-percent bracket threshold amount,

15 “(2) 25 PERCENT BRACKET.—25 percent of so
16 much of the taxable income as exceeds the 25-per-
17 cent bracket threshold amount, plus

18 “(3) 35 PERCENT BRACKET.—10 percent of so
19 much of the modified adjusted gross income (as de-
20 fined in section 2) as exceeds the 35-percent bracket
21 threshold amount.

1 “(b) BRACKET THRESHOLD AMOUNTS.—For pur-
2 poses of this section—

3 “(1) 25-PERCENT BRACKET THRESHOLD
4 AMOUNT.—The term ‘25-percent bracket threshold
5 amount’ means—

6 “(A) in the case of a joint return or sur-
7 viving spouse, \$71,200,

8 “(B) in the case of any other individual
9 (other than an estate or trust), one-half of the
10 dollar amount in effect under subparagraph
11 (A), and

12 “(C) in the case of an estate or trust, zero.

13 “(2) 35-PERCENT BRACKET THRESHOLD
14 AMOUNT.—The term ‘35-percent bracket threshold
15 amount’ means—

16 “(A) in the case of a joint return or sur-
17 viving spouse, \$450,000,

18 “(B) in the case of any other individual
19 (other than an estate or trust), \$400,000, and

20 “(C) in the case of an estate or trust,
21 \$12,000.

22 “(c) INFLATION ADJUSTMENT.—

23 “(1) IN GENERAL.—In the case of any taxable
24 year beginning after 2014, each dollar amount in
25 subsections (b)(1)(A), (b)(2)(A), (b)(2)(B),

1 (b)(2)(C), (e)(3)(A), and (e)(3)(B) shall be increased
2 by an amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-
5 mined under this subsection for the calendar
6 year in which the taxable year begins.

7 If any increase determined under the preceding sen-
8 tence is not a multiple of \$100, such increase shall
9 be rounded to the next lowest multiple of \$100.

10 “(2) COST-OF-LIVING ADJUSTMENT.—For pur-
11 poses of this subsection—

12 “(A) IN GENERAL.—The cost-of-living ad-
13 justment for any calendar year is the percent-
14 age (if any) by which—

15 “(i) the C-CPI-U for the preceding
16 calendar year, exceeds

17 “(ii) the normalized CPI for calendar
18 year 2012.

19 “(B) SPECIAL RULE FOR ADJUSTMENTS
20 WITH A BASE YEAR AFTER 2012.—For purposes
21 of any provision which provides for the substi-
22 tution of a year after 2012 for ‘2012’ in sub-
23 paragraph (A)(ii), subparagraph (A) shall be
24 applied by substituting ‘C-CPI-U’ for ‘normal-
25 ized CPI’ in clause (ii).

1 “(3) NORMALIZED CPI.—For purposes of this
2 subsection, the normalized CPI for any calendar
3 year is the product of—

4 “(A) the CPI for such calendar year, mul-
5 tiplied by

6 “(B) the C-CPI-U transition multiple.

7 “(4) C-CPI-U TRANSITION MULTIPLE.—For
8 purposes of this subsection, the term ‘C-CPI-U tran-
9 sition multiple’ means the amount obtained by divid-
10 ing—

11 “(A) the C-CPI-U for calendar year 2013,
12 by

13 “(B) the CPI for calendar year 2013.

14 “(5) C-CPI-U.—For purposes of this sub-
15 section—

16 “(A) IN GENERAL.—The term ‘C-CPI-U’
17 means the Chained Consumer Price Index for
18 All Urban Consumers (as published by the Bu-
19 reau of Labor Statistics of the Department of
20 Labor). The values of the Chained Consumer
21 Price Index for All Urban Consumers taken
22 into account for purposes of determining the
23 cost-of-living adjustment for any calendar year
24 under this subsection shall be the latest values
25 so published as of the date on which such Bu-

1 reau publishes the initial value of the Chained
2 Consumer Price Index for All Urban Con-
3 sumers for the month of August for the pre-
4 ceding calendar year.

5 “(B) DETERMINATION FOR CALENDAR
6 YEAR.—The C-CPI-U for any calendar year is
7 the average of the C-CPI-U as of the close of
8 the 12-month period ending on August 31 of
9 such calendar year.

10 “(6) CPI.—For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘Consumer
12 Price Index’ means the last Consumer Price
13 Index for All Urban Consumers published by
14 the Department of Labor. For purposes of the
15 preceding sentence, the revision of the Con-
16 sumer Price Index which is most consistent
17 with the Consumer Price Index for calendar
18 year 1986 shall be used.

19 “(B) DETERMINATION FOR CALENDAR
20 YEAR.—The CPI for any calendar year is the
21 average of the Consumer Price Index as of the
22 close of the 12-month period ending on August
23 31 of such calendar year.

24 “(d) SPECIAL RULES FOR CERTAIN CHILDREN WITH
25 UNEARNED INCOME.—

1 “(1) IN GENERAL.—In the case of any child to
2 whom this subsection applies for any taxable year—
3 “(A) the 25-percent bracket threshold
4 amount shall not be more than the taxable in-
5 come of such child for the taxable year reduced
6 by the net unearned income of such child, and
7 “(B) the 35-percent bracket threshold
8 amount shall not be more than the sum of—
9 “(i) the taxable income of such child
10 for the taxable year reduced by the net un-
11 earned income of such child, plus
12 “(ii) the dollar amount in effect under
13 subsection (b)(2)(C) for the taxable year.
14 “(2) CHILD TO WHOM SUBSECTION APPLIES.—
15 This subsection shall apply to any child for any tax-
16 able year if—
17 “(A) such child—
18 “(i) has not attained age 18 before
19 the close of the taxable year, or
20 “(ii) has attained age 18 before the
21 close of the taxable year and is described
22 in paragraph (3),
23 “(B) either parent of such child is alive at
24 the close of the taxable year, and

1 “(C) such child does not file a joint return
2 for the taxable year.

3 “(3) CERTAIN CHILDREN WHOSE EARNED IN-
4 COME DOES NOT EXCEED ONE-HALF OF INDI-
5 VIDUAL’S SUPPORT.—A child is described in this
6 paragraph if—

7 “(A) such child—

8 “(i) has not attained age 19 before
9 the close of the taxable year, or

10 “(ii) is a student (within the meaning
11 of section 7705(f)(2)) who has not attained
12 age 24 before the close of the taxable year,
13 and

14 “(B) such child’s earned income (as de-
15 fined in section 911(d)(2)) for such taxable
16 year does not exceed one-half of the amount of
17 the individual’s support (within the meaning of
18 section 7705(c)(1)(D) after the application of
19 section 7705(f)(5) (without regard to subpara-
20 graph (A) thereof)) for such taxable year.

21 “(4) NET UNEARNED INCOME.—For purposes
22 of this subsection—

23 “(A) IN GENERAL.—The term ‘net un-
24 earned income’ means the excess of—

1 “(i) the portion of the adjusted gross
2 income for the taxable year which is not
3 attributable to earned income (as defined
4 in section 911(d)(2)), over

5 “(ii) the sum of—

6 “(I) the amount in effect for the
7 taxable year under section 63(c)(4)(A)
8 (relating to limitation on standard de-
9 duction in the case of certain depend-
10 ents) , plus

11 “(II) the greater of the amount
12 described in subclause (I) or, if the
13 child itemizes his deductions for the
14 taxable year, the amount of the
15 itemized deductions allowed by this
16 chapter for the taxable year which are
17 directly connected with the production
18 of the portion of adjusted gross in-
19 come referred to in clause (i).

20 “(B) LIMITATION BASED ON TAXABLE IN-
21 COME.—The amount of the net unearned in-
22 come for any taxable year shall not exceed the
23 individual’s taxable income for such taxable
24 year.

25 “(e) PHASEOUT OF 10-PERCENT RATE.—

1 “(1) IN GENERAL.—The amount of tax imposed
2 by this section (determined without regard to this
3 subsection) shall be increased by 5 percent of the ex-
4 cess (if any) of—

5 “(A) modified adjusted gross income, over
6 “(B) the applicable dollar amount.

7 “(2) LIMITATION.—The increase determined
8 under paragraph (1) with respect to any taxpayer
9 for any taxable year shall not exceed 15 percent of
10 the lesser of—

11 “(A) the taxpayer’s taxable income for
12 such taxable year, or

13 “(B) the 25-percent bracket threshold
14 amount in effect with respect to the taxpayer
15 for such taxable year.

16 “(3) APPLICABLE DOLLAR AMOUNT.—For pur-
17 poses of this subsection, the term ‘applicable dollar
18 amount’ means—

19 “(A) in the case of a joint return or a sur-
20 viving spouse, \$300,000,

21 “(B) in the case of any other individual,
22 \$250,000.

23 “(4) ESTATES AND TRUSTS.—Paragraph (1)
24 shall not apply in the case of an estate or trust.

1 “(f) DETERMINATION OF HIGHEST RATE.—For pur-
2 poses of any provision of law which refers to the highest
3 rate of tax specified in this section (or any subsection of
4 this section), such highest rate shall be treated as being
5 35 percent.”.

6 (b) MODIFIED ADJUSTED GROSS INCOME.—Section
7 2 is amended by striking subsection (b), by redesignating
8 subsections (c), (d), and (e), as subsections (d), (e), and
9 (f), respectively, and by inserting after subsection (a) the
10 following new subsections:

11 “(b) MODIFIED ADJUSTED GROSS INCOME.—For
12 purposes of section 1—

13 “(1) IN GENERAL.—The term ‘modified ad-
14 justed gross income’ means adjusted gross income—

15 “(A) increased by—

16 “(i) any amount excluded from gross
17 income under sections 911, 931, and 933,

18 “(ii) the excess (if any) of—

19 “(I) amounts of interest received
20 or accrued by the taxpayer during the
21 taxable year which are exempt from
22 tax, over

23 “(II) amounts disallowed as a de-
24 duction by reason of section
25 163(d)(1)(A) or 171(a)(2),

- 1 “(iii) any exclusion from gross income
2 with respect to the cost described in sec-
3 tion 6051(a)(14) (without regard to sub-
4 paragraphs (A) and (B) thereof),
5 “(iv) any deduction allowable under
6 section 162(l) (relating to special rules for
7 health insurance costs of self-employed in-
8 dividuals),
9 “(v) any annual addition (as defined
10 in section 415(c)(2)) to a defined contribu-
11 tion plan which is not includible in, or
12 which is deductible from, the gross income
13 of the individual for the taxable year,
14 “(vi) any deduction allowable under
15 section 223, and
16 “(vii) the excess (if any) of—
17 “(I) the social security benefits of
18 the individual for the taxable year (as
19 defined in section 86(d)), over
20 “(II) the amount included in the
21 gross income of such individual for
22 such taxable year under section 86,
23 and
24 “(B) decreased by—

1 “(i) any deduction allowed under sec-
2 tion 170 (and in the case of an estate or
3 trust, any deduction allowed under section
4 642(c)), and

5 “(ii) qualified domestic manufacturing
6 income.

7 “(2) DETERMINATION OF ADJUSTED GROSS IN-
8 COME IN CASE OF ESTATES AND TRUSTS.—For pur-
9 poses of this subsection, the adjusted gross income
10 of an estate or trust shall be computed in the same
11 manner as in the case of an individual, except
12 that—

13 “(A) the deductions for costs which are
14 paid or incurred in connection with the admin-
15 istration of the estate or trust and which would
16 not have been incurred if the property were not
17 held in such trust or estate, and

18 “(B) the deductions allowable under sec-
19 tions 642(b), 651, and 661,
20 shall be treated as allowable in arriving at adjusted
21 gross income. Under regulations, appropriate adjust-
22 ments shall be made in the application of part I of
23 subchapter J of this chapter to take into account the
24 application of this paragraph.

1 “(c) QUALIFIED DOMESTIC MANUFACTURING IN-
2 COME.—

3 “(1) IN GENERAL.—For purposes of subsection
4 (b), the term ‘qualified domestic manufacturing in-
5 come’ for any taxable year means an amount equal
6 to the excess (if any) of—

7 “(A) the taxpayer’s domestic manufac-
8 turing gross receipts for such taxable year, over

9 “(B) the sum of—

10 “(i) the cost of goods sold that are al-
11 locable to such receipts, and

12 “(ii) other expenses, losses, or deduc-
13 tions, which are properly allocable to such
14 receipts.

15 “(2) ALLOCATION METHOD.—The Secretary
16 shall prescribe rules for the proper allocation of
17 items described in paragraph (1) for purposes of de-
18 termining qualified domestic manufacturing income.
19 Such rules shall provide for the proper allocation of
20 items whether or not such items are directly allo-
21 cable to domestic manufacturing gross receipts.

22 “(3) SPECIAL RULES FOR DETERMINING
23 COSTS.—

24 “(A) IN GENERAL.—For purposes of deter-
25 mining costs under clause (i) of paragraph

1 (1)(B), any item or service brought into the
2 United States shall be treated as acquired by
3 purchase, and its cost shall be treated as not
4 less than its value immediately after it entered
5 the United States. A similar rule shall apply in
6 determining the adjusted basis of leased or
7 rented property where the lease or rental gives
8 rise to domestic manufacturing gross receipts.

9 “(B) EXPORTS FOR FURTHER MANUFAC-
10 TURE.—In the case of any property described
11 in subparagraph (A) that had been exported by
12 the taxpayer for further manufacture, the in-
13 crease in cost or adjusted basis under subpara-
14 graph (A) shall not exceed the difference be-
15 tween the value of the property when exported
16 and the value of the property when brought
17 back into the United States after the further
18 manufacture.

19 “(4) DOMESTIC MANUFACTURING GROSS RE-
20 CEIPTS.—For purposes of this subsection—

21 “(A) IN GENERAL.—The term ‘domestic
22 manufacturing gross receipts’ means the gross
23 receipts of the taxpayer which are derived
24 from—

1 “(i) any lease, rental, license, sale, ex-
2 change, or other disposition of tangible
3 personal property which was manufac-
4 tured, produced, grown, or extracted by
5 the taxpayer in whole or in significant part
6 within the United States, or

7 “(ii) in the case of a taxpayer engaged
8 in the active conduct of a construction
9 trade or business, construction of real
10 property performed in the United States
11 by the taxpayer in the ordinary course of
12 such trade or business if such real prop-
13 erty is placed in service after December
14 31, 2014.

15 “(B) EXCEPTIONS.—Such term shall not
16 include gross receipts of the taxpayer which are
17 derived from—

18 “(i) the sale of food and beverages
19 prepared by the taxpayer at a retail estab-
20 lishment,

21 “(ii) the transmission or distribution
22 of electricity, natural gas, or potable water,
23 and

24 “(iii) the lease, rental, license, sale,
25 exchange, or other disposition of land.

1 “(C) SPECIAL RULE FOR CERTAIN GOV-
2 ERNMENT CONTRACTS.—Gross receipts derived
3 from the manufacture or production of any
4 property described in subparagraph (A)(i) shall
5 be treated as meeting the requirements of sub-
6 paragraph (A)(i) if—

7 “(i) such property is manufactured or
8 produced by the taxpayer pursuant to a
9 contract with the Federal Government, and

10 “(ii) the Federal Acquisition Regula-
11 tion requires that title or risk of loss with
12 respect to such property be transferred to
13 the Federal Government before the manu-
14 facture or production of such property is
15 complete.

16 “(D) TREATMENT OF ACTIVITIES IN PUER-
17 TO RICO.—In the case of any taxpayer with
18 gross receipts for any taxable year from sources
19 within the Commonwealth of Puerto Rico, if all
20 of such receipts are taxable under section 1 for
21 such taxable year, then this paragraph shall be
22 applied by treating each reference in subpara-
23 graph (A) to the United States as including the
24 Commonwealth of Puerto Rico.

1 “(E) TANGIBLE PERSONAL PROPERTY.—

2 The term ‘tangible personal property’ shall not
3 include computer software or any property de-
4 scribed in paragraph (3) or (4) of section
5 168(f).

6 “(F) RELATED PERSONS.—

7 “(i) IN GENERAL.—The term ‘domes-
8 tic manufacturing gross receipts’ shall not
9 include any gross receipts of the taxpayer
10 derived from property leased, licensed, or
11 rented by the taxpayer for use by any re-
12 lated person.

13 “(ii) RELATED PERSON.—For pur-
14 poses of clause (i), a person shall be treat-
15 ed as related to another person if such per-
16 sons are treated as a single employer
17 under subsection (a) or (b) of section 52 or
18 subsection (m) or (o) of section 414, ex-
19 cept that determinations under subsections
20 (a) and (b) of section 52 shall be made
21 without regard to section 1563(b).

22 “(5) CERTAIN INCOME NOT QUALIFIED.—

23 “(A) NET EARNINGS FROM SELF EMPLOY-
24 MENT.—Domestic manufacturing gross receipts
25 shall not include any amount which is properly

1 allocable to the taxpayer's net earnings from
2 self employment (determined after any reduc-
3 tion provided under section 1402(m)).

4 “(B) CERTAIN ACCOUNTING METHOD AD-
5 JUSTMENTS.—Domestic manufacturing gross
6 receipts shall not include any amount attrib-
7 utable to—

8 “(i) a qualified change in method of
9 accounting (as defined in section
10 3301(d)(2) of the Tax Reform Act of
11 2014), or

12 “(ii) any other change in method of
13 accounting which is required by the
14 amendments made by such Act.

15 “(6) APPLICATION OF SECTION TO PASS-
16 THROUGH ENTITIES.—

17 “(A) PARTNERSHIPS AND S CORPORA-
18 TIONS.—Except as provided in subparagraph
19 (B), in the case of a partnership or S corpora-
20 tion, each partner or shareholder shall take into
21 account such person's allocable share of each
22 item described in subparagraph (A) or (B) of
23 paragraph (1) (determined without regard to
24 whether the items described in such subpara-

1 graph (A) exceed the items described in such
2 subparagraph (B)).

3 “(B) PUBLICLY TRADED PARTNERSHIPS.—
4 In the case of a publicly traded partnership de-
5 scribed in section 7704(c), each partner shall
6 not take into account any allocable share of any
7 item referred to in subparagraph (A).

8 “(C) TRUSTS AND ESTATES.—In the case
9 of a trust or estate, the items referred to in
10 subparagraph (A) (as determined therein) shall
11 be apportioned between the beneficiaries and
12 the fiduciary (and among the beneficiaries)
13 under regulations prescribed by the Secretary.

14 “(7) REGULATIONS.—The Secretary shall pre-
15 scribe such regulations or other guidance as may be
16 necessary or appropriate to carry out the purposes
17 of this section, including regulations or other guid-
18 ance—

19 “(A) which prevent more than 1 taxpayer
20 from taking into account the same qualified do-
21 mestic manufacturing income, and

22 “(B) which require or restrict the alloca-
23 tion of items under paragraph (6) and require
24 such reporting for purposes of carrying out

1 such paragraph as the Secretary determines ap-
2 propriate.

3 “(8) PHASE-IN OF EXCLUSION.—In the case of
4 any taxable year beginning before January 1, 2017,
5 the term ‘qualified domestic manufacturing income’
6 shall be an amount equal to the product of the quali-
7 fied domestic manufacturing income determined
8 without regard to this paragraph, multiplied by—

9 “(A) in the case of any taxable year begin-
10 ning in 2015, 33 percent, and

11 “(B) in the case of any taxable year begin-
12 ning in 2016, 67 percent.”.

13 (c) APPLICATION OF SECTION 15.—

14 (1) IN GENERAL.—Subsection (a) of section 15
15 is amended by striking “this chapter” and inserting
16 “section 11”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Section 15 is amended by striking sub-
19 sections (d) and (f) and by redesignating sub-
20 section (e) as subsection (d).

21 (B) Section 15(d), as redesignated by sub-
22 paragraph (A), is amended by striking “section
23 1 or 11(b)” and inserting “section 11(b)”.

24 (C) Subchapter A of chapter 1 is amend-
25 ed—

- 1 (i) by redesignating section 12 as sec-
2 tion 13,
3 (ii) by redesignating section 15 (as
4 amended by this subsection) as section 12
5 and moving such section from part III of
6 such subchapter to after section 11 in part
7 II of such subchapter,
8 (iii) by striking part III, and
9 (iv) by amending the table of sections
10 for part II of such subchapter by redesignig-
11 nating the item relating to section 12 as
12 an item relating to section 13 and by in-
13 serting after the item relating to section 11
14 the following new item:

“Sec. 12. Effect of changes.”.

- 15 (D) Section 6013(e) is amended by strik-
16 ing “sections 15, 443, and 7851(a)(1)(A)” and
17 inserting “sections 443 and 7851(a)(1)(A)”.

- 18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2014.

21 **SEC. 1002. DEDUCTION FOR ADJUSTED NET CAPITAL GAIN.**

- 22 (a) IN GENERAL.—Part VI of subchapter B of chap-
23 ter 1, as amended by section 3105, is amended by insert-
24 ing after section 168 the following new section:

1 **“SEC. 169. ADJUSTED NET CAPITAL GAIN.**

2 “(a) IN GENERAL.—If for any taxable year a tax-
3 payer other than a corporation has an adjusted net capital
4 gain, 40 percent of the amount of the adjusted net capital
5 gain shall be allowed as a deduction from gross income.

6 “(b) ADJUSTED NET CAPITAL GAIN.—For purposes
7 of this section, the term ‘adjusted net capital gain’ means
8 the sum of—

9 “(1) net capital gain reduced (but not below
10 zero) by the net collectibles gain, plus

11 “(2) qualified dividend income.

12 “(c) NET CAPITAL GAIN REDUCED BY AMOUNTS
13 TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For
14 purposes of this section, the net capital gain for any tax-
15 able year shall be reduced (but not below zero) by the
16 amount which the taxpayer takes into account as invest-
17 ment income under section 163(d)(4)(B)(iii).

18 “(d) NET COLLECTIBLES GAIN.—For purposes of
19 this section—

20 “(1) IN GENERAL.—The term ‘net collectibles
21 gain’ means the excess (if any) of—

22 “(A) collectibles gain, over

23 “(B) collectibles loss.

24 “(2) COLLECTIBLES GAIN AND LOSS.—The
25 terms ‘collectibles gain’ and ‘collectibles loss’ mean
26 gain or loss (respectively) from the sale or exchange

1 of a collectible (as defined in section 408(m) without
2 regard to paragraph (3) thereof) which is a capital
3 asset held for more than 1 year but only to the ex-
4 tent such gain is taken into account in computing
5 gross income and such loss is taken into account in
6 computing taxable income.

7 “(3) PARTNERSHIPS, ETC.—For purposes of
8 paragraph (2), any gain from the sale of an interest
9 in a partnership, S corporation, or trust which is at-
10 tributable to unrealized appreciation in the value of
11 collectibles shall be treated as gain from the sale or
12 exchange of a collectible. Rules similar to the rules
13 of section 751 shall apply for purposes of the pre-
14 ceding sentence.

15 “(e) QUALIFIED DIVIDEND INCOME.—For purposes
16 of this section—

17 “(1) IN GENERAL.—The term ‘qualified divi-
18 dend income’ means dividends received during the
19 taxable year from—

20 “(A) domestic corporations, and

21 “(B) qualified foreign corporations.

22 “(2) CERTAIN DIVIDENDS EXCLUDED.—Such
23 term shall not include—

24 “(A) any dividend from a corporation
25 which for the taxable year of the corporation in

1 which the distribution is made, or the preceding
2 taxable year, is a corporation exempt from tax
3 under section 501 or 521,

4 “(B) any amount allowed as a deduction
5 under section 591 (relating to deduction for
6 dividends paid by mutual savings banks, etc.),
7 and

8 “(C) any dividend described in section
9 404(k).

10 “(3) COORDINATION WITH SECTION 246(c).—
11 Such term shall not include any dividend on any
12 share of stock—

13 “(A) with respect to which the holding pe-
14 riod requirements of section 246(c) are not met
15 (determined without regard to paragraph (5) of
16 section 246(c) and by substituting in section
17 246(c) ‘60 days’ for ‘45 days’ each place it ap-
18 pears and by substituting ‘121-day period’ for
19 ‘91-day period’), or

20 “(B) to the extent that the taxpayer is
21 under an obligation (whether pursuant to a
22 short sale or otherwise) to make related pay-
23 ments with respect to positions in substantially
24 similar or related property.

25 “(4) QUALIFIED FOREIGN CORPORATIONS.—

1 “(A) IN GENERAL.—Except as otherwise
2 provided in this subparagraph, the term ‘quali-
3 fied foreign corporation’ means any foreign cor-
4 poration if—

5 “(i) such corporation is incorporated
6 in a possession of the United States, or

7 “(ii) such corporation is eligible as a
8 qualified resident for all of the benefits
9 provided under a comprehensive income
10 tax treaty with the United States which
11 the Secretary determines is satisfactory for
12 purposes of this paragraph and which in-
13 cludes an exchange of information pro-
14 gram.

15 “(B) DIVIDENDS ON STOCK READILY
16 TRADABLE ON UNITED STATES SECURITIES
17 MARKET.—A foreign corporation not otherwise
18 treated as a qualified foreign corporation under
19 subparagraph (A) shall be so treated with re-
20 spect to any dividend paid by such corporation
21 if the stock with respect to which such dividend
22 is paid is readily tradable on an established se-
23 curities market in the United States.

24 “(C) EXCLUSION OF DIVIDENDS OF CER-
25 TAIN FOREIGN CORPORATIONS.—The term

1 ‘qualified foreign corporation’ shall not include
2 any foreign corporation which for the taxable
3 year of the corporation in which the dividend
4 was paid, or the preceding taxable year, is a
5 passive foreign investment company (as defined
6 in section 1297).

7 “(5) TREATMENT OF DIVIDENDS FROM REGU-
8 LATED INVESTMENT COMPANIES AND REAL ESTATE
9 INVESTMENT TRUSTS.—A dividend received from a
10 regulated investment company or a real estate in-
11 vestment trust shall be subject to the limitations
12 prescribed in sections 854 and 857.”.

13 (b) DEDUCTION ALLOWED WHETHER OR NOT INDI-
14 VIDUAL ITEMIZES DEDUCTIONS.—Section 62(a) is
15 amended by inserting after paragraph (7) the following
16 new paragraph:

17 “(8) ADJUSTED NET CAPITAL GAIN.—The de-
18 duction allowed by section 169.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2014.

1 **SEC. 1003. CONFORMING AMENDMENTS RELATED TO SIM-**
2 **PLIFICATION OF INDIVIDUAL INCOME TAX**
3 **RATES.**

4 (a) AMENDMENTS RELATED TO MODIFICATION OF
5 INFLATION ADJUSTMENT.—

6 (1) Section 25B(b)(3)(B) is amended by strik-
7 ing “section 1(f)(3) for the calendar year in which
8 the taxable year begins, determined by substituting
9 ‘calendar year 2005’ for ‘calendar year 1992’ in sub-
10 paragraph (B) thereof” and inserting “section
11 1(c)(2)(A) for the calendar year in which the taxable
12 year begins, determined by substituting ‘calendar
13 year 2005’ for ‘calendar year 2012’ in clause (ii)
14 thereof”.

15 (2) Subclause (II) of section 36B(b)(3)(A)(ii) is
16 amended by striking “consumer price index” and in-
17 serting “C-CPI-U (as defined in section 1(e))”.

18 (3) Section 41(e)(5)(C) is amended to read as
19 follows:

20 “(C) COST-OF-LIVING ADJUSTMENT DE-
21 FINED.—

22 “(i) IN GENERAL.—The cost-of-living
23 adjustment for any calendar year is the
24 cost-of-living adjustment for such calendar
25 year determined under section 1(c)(2)(A),

1 by substituting ‘calendar year 1987’ for
2 ‘calendar year 2012’ in clause (ii) thereof.

3 “(ii) SPECIAL RULE WHERE BASE PE-
4 RIOD ENDS IN A CALENDAR YEAR OTHER
5 THAN 1983 OR 1984.—If the base period of
6 any taxpayer does not end in 1983 or
7 1984, clause (i) shall be applied by sub-
8 stituting the calendar year in which such
9 base period ends for 1987.”.

10 (4) Section 125(i)(2) is amended—

11 (A) by striking “section 1(f)(3) for the cal-
12 endar year in which the taxable year begins by
13 substituting ‘calendar year 2012’ for ‘calendar
14 year 1992’ in subparagraph (B) thereof” in
15 subparagraph (B) and inserting “section
16 1(c)(2)(A) for the calendar year in which the
17 taxable year begins”, and

18 (B) by striking “\$50” both places it ap-
19 pears in the last sentence and inserting
20 “\$100”.

21 (5) Section 137(f) is amended—

22 (A) by striking “section 1(f)(3) for the cal-
23 endar year in which the taxable year begins, de-
24 termined by substituting ‘calendar year 2001’
25 for ‘calendar year 1992’ in subparagraph (B)

1 thereof” in paragraph (2) and inserting “sec-
2 tion 1(c)(2)(A) for the calendar year in which
3 the taxable year begins, determined by sub-
4 stituting ‘calendar year 2001’ for ‘calendar year
5 2012’ in clause (ii) thereof”, and

6 (B) in the last sentence thereof—

7 (i) by striking “\$10” the first place it
8 appears and inserting “\$100”, and

9 (ii) by striking “nearest multiple of
10 \$10” and inserting “next lowest multiple
11 of \$100”.

12 (6) Section 162(o)(3) is amended by inserting
13 “as in effect before enactment of the Tax Reform
14 Act of 2014” after “section 1(f)(5)”.

15 (7) Section 220(g)(2) is amended by striking
16 “section 1(f)(3) for the calendar year in which the
17 taxable year begins by substituting ‘calendar year
18 1997’ for ‘calendar year 1992’ in subparagraph (B)
19 thereof” and inserting “section 1(c)(2)(A) for the
20 calendar year in which the taxable year begins, de-
21 termined by substituting ‘calendar year 1997’ for
22 ‘calendar year 2012’ in clause (ii) thereof”.

23 (8) Section 223(g)(1) is amended by striking all
24 that follows subparagraph (A) and inserting the fol-
25 lowing:

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(c)(2)(A) for the calendar
3 year in which the taxable year begins, deter-
4 mined—

5 “(i) by substituting for ‘calendar year
6 2012’ in clause (ii) thereof—

7 “(I) except as provided in clause
8 (ii), ‘calendar year 1997’, and

9 “(II) in the case of each dollar
10 amount in subsection (c)(2)(A), ‘cal-
11 endar year 2003’, and

12 “(ii) by substituting ‘March 31’ for
13 ‘August 31’ in paragraphs (5)(B) and
14 (6)(B) of section 1(c).

15 The Secretary shall publish the dollar amounts
16 as adjusted under this subsection for taxable
17 years beginning in any calendar year no later
18 than June 1 of the preceding calendar year.”.

19 (9) Section 430(c)(7)(D)(vii)(II) is amended by
20 striking “section 1(f)(3) for the calendar year, deter-
21 mined by substituting ‘calendar year 2009’ for ‘cal-
22 endar year 1992’ in subparagraph (B) thereof” and
23 inserting “section 1(c)(2)(A) for the calendar year,
24 determined by substituting ‘calendar year 2009’ for
25 ‘calendar year 2012’ in clause (ii) thereof”.

1 (10) Section 512(d)(2)(B) is amended by strik-
2 ing “section 1(f)(3) for the calendar year in which
3 the taxable year begins, by substituting ‘calendar
4 year 1994’ for ‘calendar year 1992’ in subparagraph
5 (B) thereof” and inserting “section 1(c)(2)(A) for the
6 calendar year in which the taxable year begins, de-
7 termined by substituting ‘calendar year 1994’ for
8 ‘calendar year 2012’ in clause (ii) thereof”.

9 (11) Section 513(h)(2)(C)(ii) is amended by
10 striking “section 1(f)(3) for the calendar year in
11 which the taxable year begins by substituting ‘cal-
12 endar year 1987’ for ‘calendar year 1992’ in sub-
13 paragraph (B) thereof” and inserting “section
14 1(c)(2)(A) for the calendar year in which the taxable
15 year begins, determined by substituting ‘calendar
16 year 1987’ for ‘calendar year 2012’ in clause (ii)
17 thereof”.

18 (12) Section 877A(a)(3)(B)(i)(II) is amended
19 by striking “section 1(f)(3) for the calendar year in
20 which the taxable year begins, by substituting ‘cal-
21 endar year 2007’ for ‘calendar year 1992’ in sub-
22 paragraph (B) thereof” and inserting “section
23 1(c)(2)(A) for the calendar year in which the taxable
24 year begins, determined by substituting ‘calendar

1 year 2007' for 'calendar year 2012' in clause (ii)
2 thereof".

3 (13) Section 911(b)(2)(D)(ii)(II) is amended by
4 striking "section 1(f)(3) for the calendar year in
5 which the taxable year begins, determined by sub-
6 stituting '2004' for '1992' in subparagraph (B)
7 thereof" and inserting "section 1(c)(2)(A) for the
8 calendar year in which the taxable year begins, de-
9 termined by substituting 'calendar year 2004' for
10 'calendar year 2012' in clause (ii) thereof".

11 (14) Section 1274A(d)(2) is amended to read
12 as follows:

13 "(2) INFLATION ADJUSTMENT.—

14 "(A) IN GENERAL.—In the case of any
15 debt instrument arising out of a sale or ex-
16 change during any calendar year after 2014,
17 each adjusted dollar amount shall be increased
18 by an amount equal to—

19 "(i) such adjusted dollar amount,
20 multiplied by

21 "(ii) the cost-of-living adjustment de-
22 termined under section 1(c)(2)(A) for such
23 calendar year, determined by substituting
24 'calendar year 2013' for 'calendar year
25 2012' in clause (ii) thereof.

1 “(B) ADJUSTED DOLLAR AMOUNTS.—For
2 purposes of this paragraph, the term ‘adjusted
3 dollar amount’ means the dollar amounts in
4 subsections (b) and (c), in each case as in effect
5 for calendar year 2014.

6 “(C) ROUNDING.—Any increase under sub-
7 paragraph (A) shall be rounded to the nearest
8 multiple of \$100.”.

9 (15) Section 2010(c)(3)(B)(ii) is amended by
10 striking “section 1(f)(3) for such calendar year by
11 substituting ‘calendar year 2010’ for ‘calendar year
12 1992’ in subparagraph (B) thereof” and inserting
13 “section 1(c)(2)(A) for such calendar year, deter-
14 mined by substituting ‘calendar year 2010’ for ‘cal-
15 endar year 2012’ in clause (ii) thereof”.

16 (16) Section 2032A(a)(3)(B) is amended by
17 striking “section 1(f)(3) for such calendar year by
18 substituting ‘calendar year 1997’ for ‘calendar year
19 1992’ in subparagraph (B) thereof” and inserting
20 “section 1(c)(2)(A) for such calendar year, deter-
21 mined by substituting ‘calendar year 1997’ for ‘cal-
22 endar year 2012’ in clause (ii) thereof”.

23 (17) Section 2503(b)(2)(B) is amended by
24 striking “section 1(f)(3) for such calendar year by
25 substituting ‘calendar year 1997’ for ‘calendar year

1 1992' in subparagraph (B) thereof" and inserting
2 "section 1(c)(2)(A) for the calendar year, deter-
3 mined by substituting 'calendar year 1997' for 'cal-
4 endar year 2012' in clause (ii) thereof".

5 (18) Section 4161(b)(2)(C)(i)(II) is amended by
6 striking "section 1(f)(3) for such calendar year, de-
7 termined by substituting '2004' for '1992' in sub-
8 paragraph (B) thereof" and inserting "section
9 1(c)(2)(A) for such calendar year, determined by
10 substituting 'calendar year 2004' for 'calendar year
11 2012' in clause (ii) thereof".

12 (19) Section 4261(e)(4)(A)(ii) is amended by
13 striking "section 1(f)(3) for such calendar year by
14 substituting the year before the last nonindexed year
15 for 'calendar year 1992' in subparagraph (B) there-
16 of" and inserting "section 1(c)(2)(A) for such cal-
17 endar year, determined by substituting the year be-
18 fore the last nonindexed year for 'calendar year
19 2012' in clause (ii) thereof".

20 (20) Section 4980I(b)(3)(C)(v)(II) is amended
21 (A) by striking "section 1(f)(3)" and in-
22 serting "section 1(c)(2)(A)",
23 (B) by striking "subparagraph (B)" and
24 inserting "clause (ii)", and

1 (C) by striking “1992” and inserting
2 “2012”.

3 (21) Section 5000A(c)(3)(D)(ii) is amended—

4 (A) by striking “section 1(f)(3)” and in-
5 serting “section 1(c)(2)(A)”,

6 (B) by striking “subparagraph (B)” and
7 inserting “clause (ii)”, and

8 (C) by striking “1992” and inserting
9 “2012”.

10 (22) Section 6039F(d) is amended by striking
11 “section 1(f)(3), except that subparagraph (B)
12 thereof” and inserting “section 1(c)(2)(A), except
13 that clause (ii) thereof”.

14 (23) Section 6323(i)(4)(B) is amended by strik-
15 ing “section 1(f)(3) for the calendar year, deter-
16 mined by substituting ‘calendar year 1996’ for ‘cal-
17 endar year 1992’ in subparagraph (B) thereof” and
18 inserting “section 1(c)(2)(A) for the calendar year,
19 determined by substituting ‘calendar year 1996’ for
20 ‘calendar year 2012’ in clause (ii) thereof”.

21 (24) Section 6334(g)(1)(B) is amended by
22 striking “section 1(f)(3) for such calendar year, by
23 substituting ‘calendar year 1998’ for ‘calendar year
24 1992’ in subparagraph (B) thereof” and inserting
25 “section 1(c)(2)(A) for such calendar year, deter-

1 mined by substituting ‘calendar year 1999’ for ‘cal-
2 endar year 2012’ in clause (ii) thereof”.

3 (25) Section 6721(f)(1) is amended—

4 (A) by striking “section 1(f)(3)” and in-
5 serting “section 1(c)(2)(A)”,

6 (B) by striking “subparagraph (B)” and
7 inserting “clause (ii)”, and

8 (C) by striking “1992” and inserting
9 “2012”.

10 (26) Section 6722(f)(1) is amended—

11 (A) by striking “section 1(f)(3)” and in-
12 serting “section 1(c)(2)(A)”,

13 (B) by striking “subparagraph (B)” and
14 inserting “clause (ii)”, and

15 (C) by striking “1992” and inserting
16 “2012”.

17 (27) Section 7430(e)(1) is amended by striking
18 “section 1(f)(3) for such calendar year, by sub-
19 stituting ‘calendar year 1995’ for ‘calendar year
20 1992’ in subparagraph (B) thereof” in the flush text
21 at the end and inserting “section 1(c)(2)(A) for such
22 calendar year, determined by substituting ‘calendar
23 year 1995’ for ‘calendar year 2012’ in clause (ii)
24 thereof”.

1 (28) Section 7872(g)(5) is amended to read as
2 follows:

3 “(5) INFLATION ADJUSTMENT.—

4 “(A) IN GENERAL.—In the case of any
5 loan made during any calendar year after 2014
6 to which paragraph (1) applies, the adjusted
7 dollar amount shall be increased by an amount
8 equal to—

9 “(i) such adjusted dollar amount,
10 multiplied by

11 “(ii) the cost-of-living adjustment de-
12 termined under section 1(c)(2)(A) for such
13 calendar year, determined by substituting
14 ‘calendar year 2013’ for ‘calendar year
15 2012’ in clause (ii) thereof.

16 “(B) ADJUSTED DOLLAR AMOUNT.—For
17 purposes of this paragraph, the term ‘adjusted
18 dollar amount’ means the dollar amount in
19 paragraph (2) as in effect for calendar year
20 2014.

21 “(C) ROUNDING.—Any increase under sub-
22 paragraph (A) shall be rounded to the nearest
23 multiple of \$100.”

24 (b) AMENDMENTS RELATED TO DEDUCTION FOR
25 ADJUSTED NET CAPITAL GAIN.—

1 (1) Section 163(d)(4)(B) is amended by strik-
2 ing “section 1(h)(11)(B)” and inserting “section
3 169(e)”.

4 (2) Section 172(d)(2)(B) is amended by insert-
5 ing “the deduction allowable under section 169 and”
6 before “the exclusion”.

7 (3) Section 301(f)(4) is amended by striking
8 “section 1(h)(11)” and inserting “section 169(e)”.

9 (4) Section 306(a)(1)(D) is amended by strik-
10 ing “section 1(h)(11)” and inserting “section
11 169(e)”.

12 (5) The last sentence of section 453A(c)(3) is
13 amended by striking “capital gain” and all that fol-
14 lows and inserting “capital gain, the deduction
15 under section 169 shall be taken into account.”.

16 (6) Sections 531 and 541 are each amended by
17 striking “20 percent” and inserting “21 percent”.

18 (7) Section 584(e) is amended by striking “and
19 to which section 1(h)(11) applies” in the last sen-
20 tence and inserting “which is qualified dividend in-
21 come (as defined in section 169(e)) in the hands of
22 such common trust fund”.

23 (8) Section 641(e)(2)(C) (prior to redesignation
24 by title II) is amended by adding at the end the fol-
25 lowing new clause:

1 “(v) The deduction allowed by section
2 169.”.

3 (9) The first sentence of section 642(c)(4) is
4 amended by striking “consists of” and all that fol-
5 lows and inserting “consists of long-term capital
6 gain or gain described in section 1202(a), proper ad-
7 justments shall be made for any deduction allowable
8 to the trust or estate under section 169 and for any
9 exclusion allowable under section 1202.”.

10 (10) The last sentence of section 643(a)(3) is
11 amended to read as follows: “The deduction under
12 section 169 and the exclusion under section 1202
13 shall not be taken into account.”.

14 (11) Section 691(c)(4) is amended by striking
15 “1(h)” and inserting “169”.

16 (12) Section 702(a)(5) is amended by striking
17 “section 1(h)(11)” and inserting “section 169”.

18 (13) Section 854 is amended—

19 (A) by striking “section 1(h)(11) (relating
20 to maximum rate of tax on dividends)” in sub-
21 section (a) and inserting “section 169 (relating
22 to adjusted net capital gain)”.

23 (B) by striking “MAXIMUM RATE UNDER
24 SECTION 1(h)” in the heading of subsection

1 (b)(1)(B) and inserting “DETERMINATION OF
2 ADJUSTED NET CAPITAL GAIN”, and
3 (C) by striking “section 1(h)(11)(B)” in
4 subsection (b)(4) and inserting “section
5 169(e)”.

6 (14) Section 857(e)(2) is amended—
7 (A) by striking “section 1(h)(11)(B)” in
8 subparagraph (D) and inserting “section
9 169(e)”, and
10 (B) by striking “SECTION 1(h)(11)” in the
11 heading and inserting “SECTION 169(e)”.

12 (15) Section 904(b) is amended—
13 (A) by amending paragraph (2) to read as
14 follows:
15 “(2) CAPITAL GAINS.—For purposes of this sec-
16 tion, taxable income from sources outside the United
17 States shall include gain from the sale or exchange
18 of capital assets (including gain so treated under
19 section 1231) only to the extent of the lesser of—
20 “(A) capital gain net income from sources
21 without the United States, or
22 “(B) capital gain net income.”, and
23 (B) by striking paragraph (3).

24 (16) Section 1260(a) is amended by striking
25 “long-term capital gain” the first place such term

1 appears and all that follows and inserting “long-
2 term capital gain, such gain shall be treated as ordi-
3 nary income to the extent such gain exceeds the net
4 underlying long-term capital gain.”.

5 (17) Section 1411(c)(1)(B) is amended by in-
6 serting “(other than section 169)” after “this sub-
7 title”.

8 (18) Section 4985(a)(1) is amended by striking
9 “the rate of tax specified in section 1(h)(1)(C)” and
10 inserting “21 percent”.

11 (19) Section 7518(g)(6)(A) is amended by
12 striking all that follows clause (i) and inserting the
13 following:

14 “(ii) by increasing the tax imposed by
15 chapter 1 by the product of the amount of
16 such withdrawal, multiplied by—

17 “(I) in the case of a taxpayer
18 other than a corporation, 60 percent
19 of the highest rate of tax specified in
20 section 1, and

21 “(II) in the case of a corporation,
22 the highest rate of tax specified in
23 section 11.”.

24 (20) Section 53511(f) of title 46, United States
25 Code, is amended by—

1 (A) by amending paragraph (1)(B) to read
2 as follows:

3 “(B) increasing the tax imposed by chapter
4 1 of such Code by the product of the amount
5 of such withdrawal, multiplied by—

6 “(i) in the case of a taxpayer other
7 than a corporation, the highest rate of tax
8 specified in section 1 (60 percent of such
9 highest rate in the case of so much of such
10 withdrawal as is made from the capital
11 gain account), and

12 “(ii) in the case of a corporation, the
13 highest rate of tax specified in section
14 11.”, and

15 (B) by striking paragraph (2) and by re-
16 designating paragraphs (3) and (4) as para-
17 graphs (2) and (3), respectively.

18 (21) The table of sections for part VI of sub-
19 chapter B of chapter 1 is amended by inserting after
20 the item relating to section 168 the following new
21 item:

“Sec. 169. Adjusted net capital gain.”.

22 (c) OTHER CONFORMING AMENDMENTS.—

23 (1) Section 25B(b)(2) is amended by striking
24 “In the case of—” and all that follows through “any
25 taxpayer not described in paragraph (1) or subpara-

1 graph (A),” and inserting “In the case of any tax-
2 payer not described in paragraph (1),”.

3 (2) Section 36B(b)(3)(B)(ii)(I)(aa) is amended
4 to read as follows:

5 “(aa) who is described in
6 section 1(b)(1)(B) and who does
7 not have any dependents for the
8 taxable year.”.

9 (3) Section 486B(b)(1) is amended—

10 (A) by striking “maximum rate in effect”
11 and inserting “highest rate specified”, and

12 (B) by striking “section 1(e)” and insert-
13 ing “section 1”.

14 (4) Section 511(b)(1) is amended to read as fol-
15 lows:

16 “(1) IMPOSITION OF TAX.—There is hereby im-
17 posed for each taxable year on the unrelated busi-
18 ness taxable income of every trust described in para-
19 graph (2) a tax computed as provided in section 1.
20 In making such computation for purposes of this
21 section, the terms ‘taxable income’ and ‘modified ad-
22 justed gross income’ as used in section 1 shall both
23 be read as ‘unrelated business taxable income’ as de-
24 fined in section 512.”.

1 (5) Section 641(a) is amended by striking “sec-
2 tion 1(e) shall apply to the taxable income” and in-
3 serting “section 1 shall apply to the income”.

4 (6) Section 641(c)(2)(A) is amended to read as
5 follows:

6 “(A) The dollar amount in effect under
7 section 1(b)(2)(C) shall be treated as being
8 zero.”.

9 (7) Section 646(b) is amended to read as fol-
10 lows:

11 “(b) TAXATION OF INCOME OF TRUST.—Except as
12 provided in subsection (f)(1)(B)(ii), there is hereby im-
13 posed on the taxable income of an electing Settlement
14 Trust a tax at the rate specified in section 1(a)(1). Such
15 tax shall be in lieu of the income tax otherwise imposed
16 by this chapter on such income.”.

17 (8) Section 685(e) is amended by striking “Sec-
18 tion 1(e)” and inserting “Section 1”.

19 (9) Section 1398(e) is amended by striking
20 paragraphs (1) and (2), by redesignating paragraph
21 (3) as paragraph (2), and by inserting before para-
22 graph (2) as so redesignated the following new para-
23 graph:

24 “(1) COMPUTATION AND PAYMENT OF TAX.—
25 Except as otherwise provided in this section or part

1 I of subchapter A, the taxable income and modified
2 adjusted gross income of the estate shall be com-
3 puted in the same manner as for an individual. The
4 tax shall be computed under section 1 and shall be
5 paid by the trustee.”.

6 (10) Section 3402(p)(1)(B) is amended by
7 striking “any percentage applicable to any of the 3
8 lowest income brackets in the table under section
9 1(c),” and inserting “10 percent, 25 percent, 35
10 percent,”.

11 (11) Section 3402(q)(1) is amended by striking
12 “the third lowest rate of tax applicable under section
13 1(c)” and inserting “the highest rate of tax specified
14 in section 1”.

15 (12) Section 3402(r)(3) is amended by striking
16 “the amount of tax which would be imposed by sec-
17 tion 1(c) (determined without regard to any rate of
18 tax in excess of the fourth lowest rate of tax applica-
19 ble under section 1(c)) on an amount of taxable in-
20 come equal to” and inserting “an amount equal to
21 the product of the highest rate of tax specified in
22 section 1 multiplied by”.

23 (13) Section 3406(a)(1) is amended by striking
24 “the fourth lowest rate of tax applicable under sec-

1 tion 1(c)” and inserting “the highest rate of tax
2 specified in section 1”.

3 (14) Section 6103(e)(1)(A)(iii) is amended by
4 striking “section 1(g)” and inserting “section 1(d)”.

5 (d) WITHHOLDING FROM SUPPLEMENTAL WAGE
6 PAYMENTS.—

7 (1) IN GENERAL.—If an employer elects under
8 Treasury Regulation section 31.3402(g)–1 to deter-
9 mine the amount to be deducted and withheld from
10 any supplemental wage payment by using a flat per-
11 centage rate, the rate to be used in determining such
12 amount shall not be less than 35 percent.

13 (2) REPEAL OF SUPERCEDED PROVISION.—The
14 American Jobs Creation Act of 2004 is amended by
15 striking section 904.

16 (e) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection, the amendments made by
19 this section shall apply to taxable years beginning
20 after December 31, 2014.

21 (2) WITHHOLDING FROM SUPPLEMENTAL WAGE
22 PAYMENTS.—The provisions of, and amendments
23 made by, subsection (d) shall apply to payments
24 made after December 31, 2014.

1 **Subtitle B—Simplification of Tax**
2 **Benefits for Families**

3 **SEC. 1101. STANDARD DEDUCTION.**

4 (a) INCREASE IN STANDARD DEDUCTION.—Sub-
5 section (c) of section 63 is amended to read as follows:

6 “(c) STANDARD DEDUCTION.—For purposes of this
7 subtitle—

8 “(1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, the term ‘standard deduc-
10 tion’ means—

11 “(A) \$22,000, in the case of a joint return,
12 and

13 “(B) one-half of the amount in effect
14 under subparagraph (A) for the taxable year, in
15 any other case.

16 “(2) PHASEOUT OF STANDARD DEDUCTION.—
17 The amount of the standard deduction determined
18 under this subsection (without regard to this para-
19 graph and after the application of paragraph (4))
20 shall be reduced (but not below zero) by an amount
21 equal to 20 percent of the excess (if any) of—

22 “(A) the taxpayer’s modified adjusted
23 gross income (as defined in section 2(b)) for the
24 taxable year, over

1 “(B)(i) the joint return standard deduction
2 phaseout threshold for the taxable year, in the
3 case of a taxpayer described in paragraph
4 (1)(A), and

5 “(ii) the non-joint return standard deduc-
6 tion phaseout threshold for the taxable year, in
7 any other case.

8 “(3) STANDARD DEDUCTION PHASEOUT
9 THRESHOLDS.—

10 “(A) JOINT RETURN STANDARD DEDUC-
11 TION PHASEOUT THRESHOLD.—The term ‘joint
12 return standard deduction phaseout threshold’
13 means, with respect to any taxable year—

14 “(i) the dollar amount in effect under
15 section 1(e)(3)(A) for such taxable year,
16 plus

17 “(ii) the product of—

18 “(I) the dollar amount in effect
19 under section 1(b)(1)(A) for such tax-
20 able year, multiplied by

21 “(II) 3.

22 “(B) NON-JOINT RETURN STANDARD DE-
23 DUCTION PHASEOUT THRESHOLD.—The term
24 ‘non-joint return standard deduction phaseout

1 threshold' means, with respect to any taxable
2 year—

3 “(i) the dollar amount in effect under
4 section 1(e)(3)(B) for such taxable year,
5 plus

6 “(ii) the product of—

7 “(I) the dollar amount in effect
8 under section 1(b)(1)(B) for such tax-
9 able year, multiplied by

10 “(II) 3.

11 “(4) LIMITATION ON STANDARD DEDUCTION IN
12 THE CASE OF CERTAIN DEPENDENTS.—In the case
13 of an individual who is a dependent of another tax-
14 payer for a taxable year beginning in the calendar
15 year in which the individual's taxable year begins,
16 the standard deduction applicable to such individual
17 for such individual's taxable year shall not exceed
18 the greater of—

19 “(A) \$500, or

20 “(B) the sum of \$250 and such individ-
21 ual's earned income (as defined in section
22 24(d)(2)).

23 “(5) CERTAIN INDIVIDUALS, ETC., NOT ELIGI-
24 BLE FOR STANDARD DEDUCTION.—In the case of—

1 “(A) a married individual filing a separate
2 return where such individual’s spouse elects to
3 itemize deductions,

4 “(B) a nonresident alien individual,

5 “(C) an individual making a return under
6 section 443(a)(1) for a period of less than 12
7 months on account of a change in his annual
8 accounting period, or

9 “(D) an estate or trust, common trust
10 fund, or partnership,

11 the standard deduction shall be zero.

12 “(6) INFLATION ADJUSTMENTS.—In the case of
13 any taxable year beginning after 2014, each of the
14 dollar amounts in paragraphs (1)(A) and (4) shall
15 be increased by an amount equal to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-
18 mined—

19 “(i) in the case of the dollar amount
20 in paragraph (1)(A), under section
21 1(c)(2)(A) for the calendar year in which
22 the taxable year begins,

23 “(ii) in the case of the dollar amount
24 in paragraph (4)(A), under section
25 1(c)(2)(A) for the calendar year in which

1 the taxable year begins determined by sub-
2 stituting ‘calendar year 1987’ for ‘calendar
3 year 2012’ in clause (ii) thereof, and

4 “(iii) in the case of the dollar amount
5 in paragraph (4)(B), under section
6 1(c)(2)(A) for the calendar year in which
7 the taxable year begins determined by sub-
8 stituting ‘calendar year 1997’ for ‘calendar
9 year 2012’ in clause (ii) thereof.

10 If any increase determined under the preceding sen-
11 tence is not a multiple of \$100, such increase shall
12 be rounded to the next lowest multiple of \$100.”.

13 (b) **ADDITIONAL DEDUCTION FOR UNMARRIED INDI-**
14 **VIDUALS WITH AT LEAST ONE QUALIFYING CHILD.—**

15 (1) **IN GENERAL.—**Part VII of subchapter B of
16 chapter 1 is amended by redesignating section 224
17 as section 225 and by inserting after section 223 the
18 following new section:

19 **“SEC. 224. DEDUCTION FOR UNMARRIED INDIVIDUALS**
20 **WITH AT LEAST ONE QUALIFYING CHILD.**

21 “(a) **IN GENERAL.—**In the case of an unmarried indi-
22 vidual with at least one qualifying child (within the mean-
23 ing of section 7705), there shall be allowed as a deduction
24 an amount equal to \$5,500.

1 “(b) PHASEOUT OF DEDUCTION.—The amount of the
2 deduction determined under subsection (a) (without re-
3 gard to this subsection) shall be reduced (but not below
4 zero) by an amount equal to the excess (if any) of—

5 “(1) the taxpayer’s adjusted gross income (de-
6 termined without regard to this section) for the tax-
7 able year, over

8 “(2) \$30,000.

9 “(c) UNMARRIED INDIVIDUAL.—For purposes of this
10 section, the term ‘unmarried individual’ means any indi-
11 vidual who—

12 “(1) is not married as of the close of the tax-
13 able year (as determined by applying section 7703),

14 “(2) is not a surviving spouse (as defined in
15 section 2(a)) for the taxable year, and

16 “(3) is not a dependent of another taxpayer for
17 a taxable year beginning in the calendar year in
18 which the individual’s taxable year begins.

19 “(d) INFLATION ADJUSTMENTS.—

20 “(1) DEDUCTION AMOUNT.—In the case of any
21 taxable year beginning after 2014, the dollar amount
22 in subsection (a) shall be increased by an amount
23 equal to—

24 “(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(c)(2)(A) for the calendar
3 year in which the taxable year begins.

4 “(2) PHASEOUT THRESHOLD.—In the case of
5 any taxable year beginning after 2015, the dollar
6 amount in subsection (b)(2) shall be increased by an
7 amount equal to—

8 “(A) such dollar amount, multiplied by
9 “(B) the cost-of-living adjustment deter-
10 mined under section 1(c)(2)(A) for the calendar
11 year in which the taxable year begins deter-
12 mined by substituting ‘calendar year 2014’ for
13 ‘calendar year 2012’ in clause (ii) thereof.

14 “(3) ROUNDING.—If any increase determined
15 under paragraph (1) or (2) is not a multiple of
16 \$100, such increase shall be rounded to the next
17 lowest multiple of \$100.”.

18 (2) DEDUCTION ALLOWED WHETHER OR NOT
19 TAXPAYER ITEMIZES DEDUCTIONS.—Section 62(a) is
20 amended by adding at the end the following new
21 paragraph:

22 “(22) DEDUCTION FOR UNMARRIED INDIVID-
23 UALS WITH AT LEAST ONE QUALIFYING CHILD.—
24 The deduction allowed by section 224.”.

1 (c) APPLICATION OF STANDARD DEDUCTION PHASE-
2 OUT TO ITEMIZED DEDUCTIONS.—Subsection (f) of sec-
3 tion 63 is amended to read as follows:

4 “(f) APPLICATION OF PHASEOUT OF STANDARD DE-
5 DUCTION TO ITEMIZED DEDUCTIONS.—

6 “(1) IN GENERAL.—In the case of an individual
7 whose modified adjusted gross income (as defined in
8 section 2(b)) exceeds the amount in effect under
9 subsection (c)(2)(B) with respect to the taxpayer for
10 the taxable year, the amount of the itemized deduc-
11 tions otherwise allowable for the taxable year shall
12 be reduced by the lesser of—

13 “(A) 20 percent of the excess described in
14 subsection (c)(2) with respect to such taxpayer
15 for such taxable year, or

16 “(B) the amount of the taxpayer’s stand-
17 ard deduction for such taxable year (determined
18 without regard to subsection (c)(2) and without
19 regard to any election to itemize deductions).

20 “(2) COORDINATION WITH OTHER LIMITA-
21 TIONS.—This subsection shall be applied after the
22 application of any other limitation on the allowance
23 of any itemized deduction.

1 “(3) EXCEPTION FOR ESTATES AND TRUSTS.—
2 This subsection shall not apply to any estate or
3 trust.”.

4 (d) CONFORMING AMENDMENTS.—

5 (1) Sections 86(b)(2)(A) and 137(b)(3)(A) are
6 each amended by inserting “224,” before “911,”.

7 (2) Section 199(d)(2)(B) is amended by insert-
8 ing “section 224 and” before “this section”.

9 (3) Section 469(i)(3)(F)(iii) is amended by in-
10 serting “and 224” after “219,”.

11 (4) Section 1398(c), as amended by section
12 1003(c), is amended—

13 (A) by striking “BASIC” in the heading
14 thereof,

15 (B) by striking “BASIC STANDARD” in the
16 heading of paragraph (2) and inserting
17 “STANDARD”, and

18 (C) by striking “basic” in paragraph (2).

19 (5) Section 3402(m)(3) is amended by striking
20 “(including the additional standard deduction under
21 section 63(e)(3) for the aged and blind)”.

22 (6) Section 6014(b)(4) is amended by striking
23 “section 63(e)(5)” and inserting “section 63(e)(4)”.

24 (7) The table of sections for part VII of sub-
25 chapter B of chapter 1 is amended by redesignating

1 the item relating to section 224 as an item relating
2 to section 225 and by inserting after the item relat-
3 ing to section 223 the following new item:

“Sec. 224. Deduction for unmarried individuals with at least one qualifying
child.”.

4 (e) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to taxable years beginning after
6 December 31, 2014.

7 **SEC. 1102. INCREASE AND EXPANSION OF CHILD TAX CRED-**
8 **IT.**

9 (a) IN GENERAL.—Section 24 is amended to read as
10 follows:

11 **“SEC. 24. CHILD AND DEPENDENT TAX CREDIT.**

12 “(a) ALLOWANCE OF CREDIT.—There shall be al-
13 lowed as a credit against the tax imposed by this chapter
14 for the taxable year with respect to each dependent of the
15 taxpayer an amount equal to \$500 (\$1,500 in the case
16 of a qualifying child).

17 “(b) PHASEOUT OF CREDIT.—

18 “(1) IN GENERAL.—The credit allowed under
19 subsection (a) (determined without regard to this
20 subsection) shall be reduced (but not below zero) by
21 5 percent of the excess (if any) of—

22 “(A) the taxpayer’s modified adjusted
23 gross income (as defined in section 2(b)), over

1 “(B)(i) the joint return child credit phase-
2 out threshold, in the case of a joint return or
3 a surviving spouse (as defined in section 2(a)),
4 or

5 “(ii) the non-joint return child credit
6 phaseout threshold, in any other case.

7 “(2) JOINT RETURN CHILD CREDIT PHASEOUT
8 THRESHOLD.—For purposes of this section, the
9 term ‘joint return child credit phaseout threshold’
10 means, with respect to any taxable year, the sum
11 of—

12 “(A) the joint return standard deduction
13 phaseout threshold (as defined in section
14 63(c)(3)(A)), plus

15 “(B) an amount equal to—

16 “(i) the dollar amount in effect under
17 section 63(c)(1)(A) for such taxable year,
18 divided by

19 “(ii) 0.2.

20 “(3) NON-JOINT RETURN CHILD CREDIT
21 PHASEOUT THRESHOLD.—For purposes of this sec-
22 tion, the term ‘non-joint return child credit phaseout
23 threshold’ means, with respect to any taxable year,
24 the sum of—

1 “(A) the non-joint return standard deduc-
2 tion phaseout threshold (as defined in section
3 63(c)(3)(B)), plus

4 “(B) an amount equal to—
5 “(i) the dollar amount in effect under
6 section 63(c)(1)(B) for such taxable year,
7 divided by

8 “(ii) 0.2.

9 “(c) QUALIFYING CHILD.—For purposes of this sec-
10 tion—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), the term ‘qualifying child’ has the mean-
13 ing given such term by section 7705.

14 “(2) EXCEPTION FOR CERTAIN NONCITIZENS.—
15 The term ‘qualifying child’ shall not include any in-
16 dividual who would not be a dependent if subpara-
17 graph (A) of section 7705(b)(3) were applied with-
18 out regard to all that follows ‘resident of the United
19 States’.

20 “(d) PORTION OF CREDIT REFUNDABLE.—

21 “(1) IN GENERAL.—The aggregate credits al-
22 lowed under subpart C shall be increased by the
23 lesser of—

24 “(A) the credit which would be allowed
25 under this section without regard to this sub-

1 section and the limitation under section 26(a),
2 or

3 “(B) the amount by which the aggregate
4 amount of credits allowed under the subpart
5 (determined without regard to this subsection)
6 would increase if the limitation under section
7 26(a) were increased by 25 percent of the tax-
8 payer’s earned income for the taxable year.

9 The amount of the credit allowed under this sub-
10 section shall not be treated as a credit allowed under
11 this subpart and shall reduce the amount of credit
12 otherwise allowable under subsection (a) without re-
13 gard to section 26(a).

14 “(2) EARNED INCOME.—For purposes of this
15 subsection—

16 “(A) IN GENERAL.—The term ‘earned in-
17 come’ means—

18 “(i) the taxpayer’s wages, salaries,
19 tips, and other employee compensation, but
20 only if such amounts are includible in
21 gross income for the taxable year, plus

22 “(ii) the taxpayer’s net earnings from
23 self-employment for the taxable year (with-
24 in the meaning of section 1402(a)) deter-

1 mined with regard to the deduction allowed
2 to the taxpayer by section 164(f).

3 “(B) SPECIAL RULES.—For purposes of
4 subparagraph (A)—

5 “ (i) the earned income of an indi-
6 vidual shall be computed without regard to
7 any community property laws,

8 “ (ii) no amount received as a pension
9 or annuity shall be taken into account,

10 “ (iii) no amount to which section
11 871(a) applies (relating to income of non-
12 resident alien individuals not connected
13 with United States business) shall be taken
14 into account,

15 “ (iv) no amount received for services
16 provided by an individual while the indi-
17 vidual is an inmate at a penal institution
18 shall be taken into account,

19 “ (v) no amount described in subpara-
20 graph (A) received for service performed in
21 work activities as defined in paragraph (4)
22 or (7) of section 407(d) of the Social Secu-
23 rity Act to which the taxpayer is assigned
24 under any State program under part A of
25 title IV of such Act shall be taken into ac-

1 count, but only to the extent such amount
2 is subsidized under such State program,
3 and

4 “(vi) amounts excluded from gross in-
5 come by reason of section 112 shall be
6 taken into account as earned income.

7 “(C) SPECIAL RULE FOR TAXABLE YEARS
8 BEGINNING BEFORE 2018.—In the case of any
9 taxable year beginning before January 1, 2018,
10 the earned income of the taxpayer taken into
11 account under paragraph (1) shall be reduced
12 (but not below zero) by \$3,000.

13 “(3) EXCEPTION FOR TAXPAYERS EXCLUDING
14 FOREIGN EARNED INCOME.—Paragraph (1) shall not
15 apply to any taxpayer for any taxable year if such
16 taxpayer elects to exclude any amount from gross in-
17 come under section 911 for such taxable year.

18 “(e) INFLATION ADJUSTMENT.—In the case of any
19 taxable year beginning after 2014, each dollar amount in
20 subsection (a) shall be increased by an amount equal to—

21 “(1) such dollar amount, multiplied by

22 “(2) the cost-of-living adjustment determined
23 under section 1(c)(2)(A) for the calendar year in
24 which the taxable year begins.

1 If any increase determined under the preceding sentence
2 is not a multiple of \$100, such increase shall be rounded
3 to the next lowest multiple of \$100.

4 “(f) IDENTIFICATION REQUIREMENTS.—

5 “(1) IN GENERAL.—No credit shall be allowed
6 under this section to a taxpayer with respect to any
7 dependent unless the taxpayer includes the name
8 and taxpayer identification number of such depend-
9 ent on the return of tax for the taxable year.

10 “(2) ADDITIONAL IDENTIFICATION REQUIRE-
11 MENT WITH RESPECT TO REFUNDABLE CREDIT.—

12 “(A) IN GENERAL.—Subsection (d) shall
13 not apply to any taxpayer for any taxable year
14 unless the taxpayer includes the taxpayer’s So-
15 cial Security number on the return of tax for
16 such taxable year.

17 “(B) JOINT RETURNS.—In the case of a
18 joint return, the requirement of subparagraph
19 (A) shall be treated as met if the Social Secu-
20 rity number of either spouse is included on such
21 return.

22 “(g) TAXABLE YEAR MUST BE FULL TAXABLE
23 YEAR.—Except in the case of a taxable year closed by rea-
24 son of the death of the taxpayer, no credit shall be allow-

1 able under this section in the case of a taxable year cov-
2 ering a period of less than 12 months.”.

3 (b) OMISSION OF IDENTIFICATION INFORMATION
4 TREATED AS MATHEMATICAL OR CLERICAL ERROR.—
5 Subparagraph (I) of section 6213(g)(2) of such Code is
6 amended to read as follows:

7 “(I) an omission of a correct TIN under
8 section 24(f)(1) (relating to the child and de-
9 pendent tax credit), or a correct Social Security
10 number under section 24(f)(2) (relating to the
11 refundable portion of child and dependent tax
12 credit), to be included on a return,”.

13 (c) APPLICATION OF RULE FOR SHORT TAXABLE
14 YEARS.—Section 443(c) is amended to read as follows:

15 “(c) ADJUSTMENT IN CHILD AND DEPENDENT TAX
16 CREDIT.—If a return is made for a short period by reason
17 of subsection (a)(1) and if the tax is not computed under
18 subsection (b)(2), then the credit allowed under section
19 24 shall be reduced to an amount which bears the same
20 ratio to the full amount of such credit as the number of
21 months in the short period bears to 12.”.

22 (d) CLERICAL AMENDMENT.—The table of sections
23 for subpart A of part IV of subchapter A of chapter 1
24 is amended by striking the item relating to section 24 and
25 inserting the following new item:

“Sec. 24. Child and dependent tax credit.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 1103. MODIFICATION OF EARNED INCOME TAX CRED-**
5 **IT.**

6 (a) IN GENERAL.—Section 32 is amended to read as
7 follows:

8 **“SEC. 32. EARNED INCOME.**

9 “(a) IN GENERAL.—In the case of an individual who
10 is an eligible individual for any taxable year, there shall
11 be allowed as a credit against the tax imposed by this sub-
12 title for such taxable year an amount equal to the tax-
13 payer’s employment-related taxes for such taxable year.

14 “(b) LIMITATIONS.—

15 “(1) DOLLAR LIMITATION.—The credit allowed
16 under subsection (a) shall not exceed—

17 “(A) in the case of a taxpayer with 2 or
18 more qualifying children, \$3,000 (\$4,000 in the
19 case of a joint return), and

20 “(B) in the case of a taxpayer with 1
21 qualifying child, \$2,400.

22 “(2) PHASE-OUT OF CREDIT.—The credit al-
23 lowed under subsection (a) (determined after appli-
24 cation of paragraph (1)) shall be reduced (but not
25 below zero) by the sum of—

1 “(A) 19 percent of so much of the tax-
2 payer’s adjusted gross income (reduced by the
3 amount of any excess described in subpara-
4 graph (B)) as exceeds \$20,000 (\$27,000 in the
5 case of a joint return), plus

6 “(B) so much of the taxpayer’s investment
7 income for the taxable year as exceeds \$3,300.

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

9 “(1) ELIGIBLE INDIVIDUAL.—

10 “(A) IN GENERAL.—The term ‘eligible in-
11 dividual’ means any individual who has a quali-
12 fying child for the taxable year.

13 “(B) QUALIFYING CHILD INELIGIBLE.—If
14 an individual is the qualifying child of a tax-
15 payer for any taxable year of such taxpayer be-
16 ginning in a calendar year, such individual shall
17 not be treated as an eligible individual for any
18 taxable year of such individual beginning in
19 such calendar year.

20 “(C) EXCEPTION FOR INDIVIDUAL CLAIM-
21 ING BENEFITS UNDER SECTION 911.—The term
22 ‘eligible individual’ does not include any indi-
23 vidual who claims the benefits of section 911
24 (relating to citizens or residents living abroad)
25 for the taxable year.

1 “(D) LIMITATION ON ELIGIBILITY OF NON-
2 RESIDENT ALIENS.—The term ‘eligible indi-
3 vidual’ shall not include any individual who is
4 a nonresident alien individual for any portion of
5 the taxable year unless such individual is treat-
6 ed for such taxable year as a resident of the
7 United States for purposes of this chapter by
8 reason of an election under subsection (g) or
9 (h) of section 6013.

10 “(2) EMPLOYMENT-RELATED TAXES.—The
11 term ‘employment-related taxes’ means, with respect
12 to any taxpayer for any taxable year, the sum of—

13 “(A) any tax imposed under sections 3101
14 or 3111 on the wages (as defined in section
15 3121(a)) received by the taxpayer during the
16 calendar year in which the taxable year begins,

17 “(B) any tax imposed under sections
18 3201(a), 3211(a), or 3221(a) on the compensa-
19 tion (as defined in section 3231(e)) received by
20 the taxpayer during the calendar year in which
21 the taxable year begins, and

22 “(C) any tax imposed under section 1401
23 on the self-employment income of the taxpayer
24 for the taxable year.

25 “(3) QUALIFYING CHILD.—

1 “(A) IN GENERAL.—The term ‘qualifying
2 child’ means a qualifying child of the taxpayer
3 (within the meaning of section 7705, deter-
4 mined without regard to subsections (c)(1)(D)
5 and (e) thereof).

6 “(B) PLACE OF ABODE.—For purposes of
7 subparagraph (A), the requirements of section
8 7705(c)(1)(B) shall be met only if the principal
9 place of abode is in the United States.

10 “(C) TREATMENT OF MILITARY PER-
11 SONNEL STATIONED OUTSIDE THE UNITED
12 STATES.—For purposes of subparagraph (B),
13 the principal place of abode of a member of the
14 Armed Forces of the United States shall be
15 treated as in the United States during any pe-
16 riod during which such member is stationed
17 outside the United States while serving on ex-
18 tended active duty with the Armed Forces of
19 the United States. For purposes of the pre-
20 ceding sentence, the term ‘extended active duty’
21 means any period of active duty pursuant to a
22 call or order to such duty for a period in excess
23 of 90 days or for an indefinite period.

1 “(4) INVESTMENT INCOME.—For purposes of
2 paragraph (1), the term ‘investment income’
3 means—
4 “(A) interest or dividends to the extent in-
5 cludible in gross income for the taxable year,
6 “(B) interest received or accrued during
7 the taxable year which is exempt from tax im-
8 posed by this chapter,
9 “(C) the excess (if any) of—
10 “(i) gross income from rents or royal-
11 ties not derived in the ordinary course of
12 a trade or business, over
13 “(ii) the sum of—
14 “(I) the deductions (other than
15 interest) which are clearly and directly
16 allocable to such gross income, plus
17 “(II) interest deductions properly
18 allocable to such gross income,
19 “(D) the capital gain net income (as de-
20 fined in section 1222) of the taxpayer for such
21 taxable year, and
22 “(E) the excess (if any) of—
23 “(i) the aggregate income from all
24 passive activities for the taxable year (de-
25 termined without regard to any amount

1 with respect to which a tax described in
2 subsection (c)(2) is imposed or an amount
3 described in a preceding subparagraph),
4 over

5 “(ii) the aggregate losses from all pas-
6 sive activities for the taxable year (as so
7 determined).

8 For purposes of subparagraph (E), the term
9 ‘passive activity’ has the meaning given such
10 term by section 469.

11 “(d) IDENTIFICATION REQUIREMENTS.—

12 “(1) IN GENERAL.—No credit shall be allowed
13 under this section unless the taxpayer includes on
14 the return of tax for the taxable year—

15 “(A) the taxpayer’s Social Security num-
16 ber, and

17 “(B) the name, age, and Social Security
18 number of each qualifying child taken into ac-
19 count under subsection (b)(1).

20 “(2) JOINT RETURNS.—In the case of a joint
21 return, the requirement of paragraph (1)(A) shall be
22 treated as met if the Social Security number of ei-
23 ther spouse is included on such return.

24 “(3) OTHER METHODS OF PROVIDING CHIL-
25 DREN’S INFORMATION.—The Secretary may pre-

1 scribe other methods for providing the information
2 described in paragraph (1)(B).

3 “(e) RESTRICTIONS ON TAXPAYERS WHO IMPROP-
4 ERLY CLAIMED CREDIT IN PRIOR YEAR.—

5 “(1) TAXPAYERS MAKING PRIOR FRAUDULENT
6 OR RECKLESS CLAIMS.—

7 “(A) IN GENERAL.—No credit shall be al-
8 lowed under this section for any taxable year in
9 the disallowance period.

10 “(B) DISALLOWANCE PERIOD.—For pur-
11 poses of paragraph (1), the disallowance period
12 is—

13 “(i) the period of 10 taxable years
14 after the most recent taxable year for
15 which there was a final determination that
16 the taxpayer’s claim of credit under this
17 section was due to fraud, and

18 “(ii) the period of 2 taxable years
19 after the most recent taxable year for
20 which there was a final determination that
21 the taxpayer’s claim of credit under this
22 section was due to reckless or intentional
23 disregard of rules and regulations (but not
24 due to fraud).

1 “(2) TAXPAYERS MAKING IMPROPER PRIOR
2 CLAIMS.—In the case of a taxpayer who is denied
3 credit under this section for any taxable year as a
4 result of the deficiency procedures under subchapter
5 B of chapter 63, no credit shall be allowed under
6 this section for any subsequent taxable year unless
7 the taxpayer provides such information as the Sec-
8 retary may require to demonstrate eligibility for
9 such credit.

10 “(f) OTHER SPECIAL RULES.—For purposes of this
11 section—

12 “(1) MARRIED INDIVIDUALS.—In the case of an
13 individual who is married (within the meaning of
14 section 7703), this section shall apply only if a joint
15 return is filed for the taxable year under section
16 6013.

17 “(2) TAXABLE YEAR MUST BE FULL TAXABLE
18 YEAR.—Except in the case of a taxable year closed
19 by reason of the death of the taxpayer, no credit
20 shall be allowable under this section in the case of
21 a taxable year covering a period of less than 12
22 months.

23 “(3) COORDINATION WITH CERTAIN MEANS-
24 TESTED PROGRAMS.—For purposes of—

1 “(A) the United States Housing Act of
2 1937,

3 “(B) title V of the Housing Act of 1949,

4 “(C) section 101 of the Housing and
5 Urban Development Act of 1965,

6 “(D) sections 221(d)(3), 235, and 236 of
7 the National Housing Act, and

8 “(E) the Food and Nutrition Act of 2008,
9 any refund made to an individual (or the spouse of
10 an individual) by reason of this section, and any
11 payment made to such individual (or such spouse)
12 by an employer under section 3507, shall not be
13 treated as income (and shall not be taken into ac-
14 count in determining resources for the month of its
15 receipt and the following month).

16 “(4) COORDINATION WITH PAYROLL TAX CRED-
17 ITS.—The credit allowed under subsection (a) with
18 respect to any taxpayer for any taxable year shall be
19 reduced by the sum of the credits allowed under sec-
20 tions 3103 and 3203 with respect to such taxpayer
21 for such taxable year.

22 “(g) APPLICATION TO CERTAIN INDIVIDUALS WITH-
23 OUT QUALIFYING CHILDREN.—For purposes of this sec-
24 tion and sections 3103 and 3203—

1 “(1) IN GENERAL.—In the case of an individual
2 described in paragraph (2)—

3 “(A) such individual shall be treated as an
4 eligible individual,

5 “(B) notwithstanding subsection (i), the
6 dollar limitation applicable to such individual
7 under subsection (b)(1) shall be \$100 (twice
8 such amount in the case of a joint return),

9 “(C) subsection (b)(2)(A) shall be applied
10 by substituting ‘\$8,000 (\$13,000’ for ‘\$20,000
11 (\$27,000’, and

12 “(D) subsection (i)(1) shall not apply and
13 the employment-related taxes with respect to
14 such individual for any taxable year shall not
15 exceed the sum of—

16 “(i) any tax imposed under section
17 3101 on the wages (as defined in section
18 3121(a)) received by the taxpayer during
19 the calendar year in which the taxable year
20 begins,

21 “(ii) any tax imposed under sections
22 3201(a) (and so much of the tax imposed
23 by section 3211(a) as is attributable to the
24 rates of tax under subsections (a) and (b)
25 of section 3101) on the compensation (as

1 defined in section 3231(e) received by the
2 taxpayer during the calendar year in which
3 the taxable year begins, and

4 “(iii) 50 percent of any tax imposed
5 under section 1401 on the self-employment
6 income of the taxpayer for the taxable
7 year.

8 “(2) INDIVIDUAL TO WHOM SUBSECTION AP-
9 PLIES.—An individual is described in this paragraph
10 for any taxable year if—

11 “(A) such individual does not have a quali-
12 fying child for the taxable year,

13 “(B) such individual’s principal place of
14 abode is in the United States for more than
15 one-half of such taxable year,

16 “(C) such individual (or, if the individual
17 is married (within the meaning of section
18 7703), either the individual or the individual’s
19 spouse) has attained age 25 but not attained
20 age 65 before the close of the taxable year, and

21 “(D) such individual is not a dependent of
22 another taxpayer for any taxable year beginning
23 in the same calendar year as such taxable year.

24 “(h) INFLATION ADJUSTMENT.—In the case of any
25 taxable year beginning after 2014, both dollar amounts

1 in subsection (b)(1)(A), the dollar amount in subsection
2 (b)(1)(B), both dollar amounts in subsection (b)(2)(A),
3 the dollar amount in subsection (b)(2)(B), the \$100
4 amount in subsection (g)(1)(B), the \$8,000 and \$13,000
5 amounts in subsection (g)(1)(C), the \$4,000 amount in
6 subsection (i)(2), and the \$3,000 amount in subsection
7 (i)(3), shall each be increased by an amount equal to—

8 “(1) such dollar amount, multiplied by

9 “(2) the cost-of-living adjustment determined
10 under section 1(c)(2)(A) for the calendar year in
11 which the taxable year begins.

12 If any increase determined under the preceding sentence
13 is not a multiple of \$100 (\$10 in the case of the \$100
14 amount in subsection (g)(1)(B)), such increase shall be
15 rounded to the next lowest multiple of \$100 (\$10 in the
16 case of the \$100 amount in subsection (g)(1)(B)).

17 “(i) SPECIAL RULES FOR TAXABLE YEARS BEGIN-
18 NING BEFORE 2018.—In the case of any taxable year be-
19 ginning before January 1, 2018—

20 “(1) subsection (a) shall be applied by sub-
21 stituting ‘200 percent of the taxpayer’s employment-
22 related taxes’ for ‘the taxpayer’s employment-related
23 taxes’,

1 “(2) subsection (b)(1)(A) shall be applied by
2 substituting ‘\$4,000’ for ‘\$3,000 (\$4,000 in the case
3 of a joint return)’, and

4 “(3) subsection (b)(1)(B) shall be applied by
5 substituting ‘\$3,000’ for ‘\$2,400’.”.

6 (b) CREDIT ALLOWED AGAINST PAYROLL TAXES.—

7 (1) FICA TAX.—Subchapter A of chapter 21 is
8 amended by adding at the end the following new sec-
9 tion:

10 **“SEC. 3103. CREDIT AGAINST TAX.**

11 “(a) IN GENERAL.—In the case of an individual who
12 is allowed a credit under section 32 (determined without
13 regard to subsection (f)(4) thereof) for a taxable year,
14 there shall be allowed as a credit against the tax imposed
15 by section 3101 with respect to wages received by such
16 individual during the calendar year ending with or within
17 such taxable year the lesser of—

18 “(1) the amount of tax so imposed, or

19 “(2) the amount of the credit allowed under
20 section 32 (as so determined) for such taxable year.

21 “(b) APPLICATION OF CREDIT.—The credit deter-
22 mined under subsection (a) shall be taken into account
23 under this title in the same manner as a credit or refund
24 to which the taxpayer is entitled under section 6413(c)(1).
25 Such credit shall not be taken into account for purposes

1 of determining any amount deducted and withheld under
2 section 3102.”.

3 (2) RAILROAD RETIREMENT TAX.—Subchapter
4 A of chapter 22 is amended by adding at the end
5 the following new section:

6 **“SEC. 3203. CREDIT AGAINST TAX.**

7 “(a) IN GENERAL.—In the case of an individual who
8 is allowed a credit under section 32 (determined without
9 regard to subsection (f)(4) thereof) for a taxable year,
10 there shall be allowed as a credit against the tax imposed
11 by section 3201(a) (and so much of the tax imposed by
12 section 3211(a) as is attributable to the rates of tax under
13 subsections (a) and (b) of section 3101) with respect to
14 compensation received by such individual during the cal-
15 endar year ending with or within such taxable year the
16 lesser of—

17 “(1) the amount of tax so imposed, or

18 “(2) the excess of—

19 “(A) the amount of the credit allowed
20 under section 32 (as so determined) for such
21 taxable year, over

22 “(B) the amount of the credit allowed
23 under section 3103.

24 “(b) APPLICATION OF CREDIT.—The credit deter-
25 mined under subsection (a) shall be taken into account

1 under this title in the same manner as a credit or refund
2 to which the taxpayer is entitled under section 6413(c)(1).
3 Such credit shall not be taken into account for purposes
4 of determining any amount deducted and withheld under
5 section 3202.”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) Section 86(f)(2) is amended by striking
8 “section 32(c)(2)” and inserting “section 24(d)(2)”.

9 (2) Section 129(e)(2) is amended by striking
10 “section 32(c)(2)” and inserting “section 24(d)(2)”

11 (3) Section 6051(a)(10) is amended by striking
12 “for purposes of section 32 (relating to earned in-
13 come credit)” and inserting “under section
14 24(d)(2)”.

15 (4) Section 6211(b)(4)(A) is amended by insert-
16 ing “(determined without regard to subsection (f)(4)
17 thereof)” after “32”.

18 (5) Section 6213(g)(2)(F) is amended by strik-
19 ing “taxpayer identification number” and inserting
20 “Social Security number”.

21 (6) Section 6213(g)(2)(G) is amended by strik-
22 ing “with respect to” and all that follows and insert-
23 ing “with respect to the tax imposed under section
24 1401 (relating to self-employment tax) to the extent
25 such tax has not been paid,”.

1 (7) Section 6213(g)(2)(K) is amended by strik-
2 ing “section 32(k)(2)” and inserting “section
3 32(e)(2)”.

4 (8) Section 7705(f)(6)(B), as redesignated by
5 this Act, is amended by striking clause (iv), by strik-
6 ing “, and” at the end of clause (iii) and inserting
7 a period, and by inserting “and” at the end of
8 clause (ii).

9 (9) The table of sections for subchapter A of
10 chapter 21 is amended by adding at the end the fol-
11 lowing new item:

“Sec. 3103. Credit against tax.”.

12 (10) The table of sections for subchapter A of
13 chapter 22 is amended by adding at the end the fol-
14 lowing new item:

“Sec. 3203. Credit against tax.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2014.

18 (e) TREATMENT OF TAXPAYERS WHO IMPROPERLY
19 CLAIMED CREDIT IN PRIOR YEARS.—A claim of credit
20 under section 32 of the Internal Revenue Code of 1986
21 (as in effect before the amendments made by this section)
22 shall not fail to be taken into account under subsection
23 (e) of such section (as amended by this section) merely

1 because such claim is for a taxable year beginning before
2 January 1, 2015.

3 (f) TREASURY REPORT ON MAKING CREDIT
4 ADVANCEABLE.—Not later than the date which is 180
5 days after the date of the enactment of this Act, the Sec-
6 retary of the Treasury (or the Secretary's designee) shall
7 submit a report to Congress making recommendations re-
8 garding the best method for providing for advance pay-
9 ment of the credits established by the amendments made
10 by this section. The recommendations in such report shall
11 seek to—

12 (1) provide for the payment of such credits to
13 taxpayers as promptly as is feasible, including on a
14 weekly, biweekly, or monthly basis, and

15 (2) minimize any administrative burdens on em-
16 ployers and the Internal Revenue Service.

17 **SEC. 1104. REPEAL OF DEDUCTION FOR PERSONAL EXEMP-**
18 **TIONS.**

19 (a) IN GENERAL.—Part V of subchapter B of chapter
20 1 is hereby repealed.

21 (b) DEFINITION OF DEPENDENT RETAINED.—

22 (1) IN GENERAL.—Section 152, prior to repeal
23 by subsection (a), is hereby redesignated as section
24 7705 and moved to the end of chapter 79.

1 (2) MODIFICATION OF AGE REQUIREMENTS.—

2 Section 7705(c)(3)(A), as redesignated by paragraph
3 (1), is amended by striking “as a qualifying child
4 and—” and all that follows and inserting “is a
5 qualifying child and has not attained the age of 18
6 as of the close of the calendar year in which the tax-
7 able year of the taxpayer begins.”.

8 (c) APPLICATION TO ESTATES AND TRUSTS.—Sub-
9 section (b) of section 642 is amended—

10 (1) by striking paragraph (2)(C),

11 (2) by striking paragraph (3), and

12 (3) by striking “DEDUCTION FOR PERSONAL
13 EXEMPTION” in the heading thereof and inserting
14 “BASIC DEDUCTION”.

15 (d) APPLICATION TO NONRESIDENT ALIENS.—Sec-
16 tion 873(b) is amended by striking paragraph (3).

17 (e) MODIFICATION OF WAGE WITHHOLDING
18 RULES.—

19 (1) IN GENERAL.—Section 3402(a)(2) is
20 amended by striking “the amount of one personal
21 exemption provided in section 151(b)” and inserting
22 “\$3,900”.

23 (2) INFLATION ADJUSTMENT.—Section 3402(a)
24 is amended by adding at the end the following new
25 paragraph:

1 “(3) INFLATION ADJUSTMENT.—In the case of
2 any calendar year beginning after 2014, the \$3,900
3 amount in paragraph (2) shall be increased by an
4 amount equal to—

5 “(A) such dollar amount, multiplied by

6 “(B) the cost-of-living adjustment deter-
7 mined under section 1(c)(2)(A) for such cal-
8 endar year.

9 If any increase determined under the preceding sen-
10 tence is not a multiple of \$100, such increase shall
11 be rounded to the next lowest multiple of \$100.”.

12 (3) NUMBER OF EXEMPTIONS.—Section
13 3402(f)(1) is amended—

14 (A) in subparagraph (A), by striking “an
15 individual described in section 151(d)(2)” and
16 inserting “a dependent of any other taxpayer”,
17 and

18 (B) in subparagraph (C), by striking “with
19 respect to whom, on the basis of facts existing
20 at the beginning of such day, there may reason-
21 ably be expected to be allowable an exemption
22 under section 151(e)” and inserting “who, on
23 the basis of facts existing at the beginning of
24 such day, is reasonably expected to be a de-
25 pendent of the employee”.

1 (f) MODIFICATION OF RETURN REQUIREMENT.—
2 (1) IN GENERAL.—Paragraph (1) of section
3 6012(a) is amended to read as follows:
4 “(1) Every individual who has gross income for
5 the taxable year, except that a return shall not be
6 required of—
7 “(A) an individual who is not married (de-
8 termined by applying section 7703) and who
9 has gross income for the taxable year which
10 does not exceed the standard deduction applica-
11 ble to such individual for such taxable year
12 under section 63, or
13 “(B) an individual entitled to make a joint
14 return if—
15 “(i) the gross income of such indi-
16 vidual, when combined with the gross in-
17 come of such individual’s spouse, for the
18 taxable year does not exceed the standard
19 deduction which would be applicable to the
20 taxpayer for such taxable year under sec-
21 tion 63 if such individual and such individ-
22 ual’s spouse made a joint return,
23 “(ii) such individual and such individ-
24 ual’s spouse have the same household as
25 their home at the close of the taxable year,

1 “(iii) such individual’s spouse does not
2 make a separate return, and

3 “(iv) neither such individual nor such
4 individual’s spouse is an individual de-
5 scribed in section 63(c)(4) who has income
6 (other than earned income) in excess of the
7 amount in effect under section
8 63(c)(4)(A).”.

9 (2) BANKRUPTCY ESTATES.—Paragraph (8) of
10 section 6012(a) is amended by striking “the sum of
11 the exemption amount plus the basic standard de-
12 duction under section 63(c)(2)(D)” and inserting
13 “the standard deduction in effect under section
14 63(c)(1)(B)”.

15 (g) CONFORMING AMENDMENTS.—

16 (1) Section 2(a)(1)(B) is amended by striking
17 “a dependent” and all that follows through “section
18 151” and inserting “a dependent who (within the
19 meaning of section 7705, determined without regard
20 to subsections (b)(1), (b)(2) and (d)(1)(B) thereof)
21 is a son, stepson, daughter, or stepdaughter of the
22 taxpayer”.

23 (2) Section 36B(b)(2)(A) is amended by strik-
24 ing “section 152” and inserting “section 7705”.

1 (3) Section 36B(b)(3)(B) is amended by strik-
2 ing “unless a deduction is allowed under section 151
3 for the taxable year with respect to a dependent” in
4 the flush matter at the end and inserting “unless
5 the taxpayer has a dependent for the taxable year”.

6 (4) Section 36B(c)(1)(D) is amended by strik-
7 ing “with respect to whom a deduction under section
8 151 is allowable to another taxpayer” and inserting
9 “who is a dependent of another taxpayer”.

10 (5) Section 36B(d)(1) is amended by striking
11 “equal to the number of individuals for whom the
12 taxpayer is allowed a deduction under section 151
13 (relating to allowance of deduction for personal ex-
14 emptions) for the taxable year” and inserting “the
15 sum of 1 (2 in the case of a joint return) plus the
16 number of the taxpayer’s dependents for the taxable
17 year”.

18 (6) Section 36B(e)(1) is amended by striking
19 “1 or more individuals for whom a taxpayer is al-
20 lowed a deduction under section 151 (relating to al-
21 lowance of deduction for personal exemptions) for
22 the taxable year (including the taxpayer or his
23 spouse)” and inserting “1 or more of the taxpayer,
24 the taxpayer’s spouse, or any dependent of the tax-
25 payer”.

1 (7) Section 42(i)(3)(D)(ii)(I) is amended—

2 (A) by striking “section 152” and insert-
3 ing “section 7705”, and

4 (B) by striking the period at the end and
5 inserting a comma.

6 (8) Section 63(b) is amended by striking
7 “minus—” and all that follows and inserting “minus
8 the standard deduction.”.

9 (9) Section 63(d) is amended by striking “other
10 than—” and all that follows and inserting “other
11 than the deductions allowable in arriving at adjusted
12 gross income.”.

13 (10) Section 72(t)(2)(D)(i)(III) is amended by
14 striking “section 152” and inserting “section 7705”.

15 (11) Section 72(t)(7)(A)(iii) is amended by
16 striking “section 152(f)(1)” and inserting “section
17 7705(f)(1)”.

18 (12) Section 105(b) is amended—

19 (A) by striking “as defined in section 152”
20 and inserting “as defined in section 7705”,

21 (B) by striking “section 152(f)(1)” and in-
22 sserting “section 7705(f)(1)” and

23 (C) by striking “section 152(e)” and in-
24 sserting “section 7705(e)”.

1 (13) Section 105(c)(1) is amended by striking
2 “section 152” and inserting “section 7705”.

3 (14) Section 125(e)(1)(D) is amended by strik-
4 ing “section 152” and inserting “section 7705”.

5 (15) Section 129(e) is amended—

6 (A) by striking “with respect to whom, for
7 such taxable year, a deduction is allowable
8 under section 151(c) (relating to personal ex-
9 emptions for dependents) to” in paragraph (1)
10 and inserting “who is a dependent of”, and

11 (B) by striking “section 152(f)(1)” in
12 paragraph (2) and inserting “section
13 7705(f)(1)”.

14 (16) Section 132(h)(2)(B) is amended—

15 (A) by striking “section 152(f)(1)” and in-
16 serting “section 7705(f)(1)”, and

17 (B) by striking “section 152(e)” and in-
18 serting “section 7705(e)”.

19 (17) Section 139D(e)(5) is amended by striking
20 “section 152” and inserting “section 7705”.

21 (18) Section 162(l)(1)(D) is amended by strik-
22 ing “section 152(f)(1)” and inserting “section
23 7705(f)(1)”.

24 (19) Section 170(g)(1) is amended by striking
25 “section 152” and inserting “section 7705”.

1 (20) Section 170(g)(3) is amended by striking
2 “section 152(d)(2)” and inserting “section
3 7705(d)(2)”.

4 (21) Section 172(d) is amended by striking
5 paragraph (3).

6 (22) Section 220(b)(6) is amended by striking
7 “with respect to whom a deduction under section
8 151 is allowable to” and inserting “who is a depend-
9 ent of”.

10 (23) Section 220(d)(2)(A) is amended by strik-
11 ing “section 152” and inserting “section 7705”.

12 (24) Section 223(b)(6) is amended by striking
13 “with respect to whom a deduction under section
14 151 is allowable to” and inserting “who is a depend-
15 ent of”.

16 (25) Section 223(d)(2)(A) is amended by strik-
17 ing “section 152” and inserting “section 7705”.

18 (26) Section 401(h) is amended by striking
19 “section 152(f)(1)” in the last sentence and insert-
20 ing “section 7705(f)(1)”.

21 (27) Section 402(l)(4)(D) is amended by strik-
22 ing “section 152” and inserting “section 7705”.

23 (28) Section 409A(a)(2)(B)(ii)(I) is amended
24 by striking “section 152(a)” and inserting “section
25 7705(a)”.

1 (29) Section 501(c)(9) is amended by striking
2 “section 152(f)(1)” and inserting “section
3 7705(f)(1)”.

4 (30) Section 529(e)(2)(B) is amended by strik-
5 ing “section 152(d)(2)” and inserting “section
6 7705(d)(2)”.

7 (31) Section 703(a)(2) is amended by striking
8 subparagraph (A) and by redesignating subpara-
9 graphs (B) through (F) as subparagraphs (A)
10 through (E), respectively.

11 (32) Section 874 is amended by striking sub-
12 section (b) and by redesignating subsection (c) as
13 subsection (b).

14 (33) Section 891 is amended by striking “under
15 section 151 and”.

16 (34) Section 904(b) is amended by striking
17 paragraph (1).

18 (35) Section 931(b)(1) is amended by striking
19 “(other than the deduction under section 151, relat-
20 ing to personal exemptions)”.

21 (36) Section 933 is amended—

22 (A) by striking “(other than the deduction
23 under section 151, relating to personal exemp-
24 tions)” in paragraph (1), and

1 (B) by striking “(other than the deduction
2 for personal exemptions under section 151)” in
3 paragraph (2).

4 (37) Section 1212(b)(2)(B)(ii) is amended to
5 read as follows:

6 “(ii) in the case of an estate or trust,
7 the deduction allowed for such year under
8 section 642(b).”.

9 (38) Section 1361(c)(1)(C) is amended by strik-
10 ing “section 152(f)(1)(C)” and inserting “section
11 7705(f)(1)(C)”.

12 (39) Section 1402(a) is amended by striking
13 paragraph (7).

14 (40) Section 2032A(e)(7)(D) is amended by
15 striking “section 152(f)(2)” and inserting “section
16 7705(f)(2)”.

17 (41) Section 3402(m)(1) is amended by striking
18 “other than the deductions referred to in section
19 151 and”.

20 (42) Section 3402(r)(2) is amended by striking
21 “the sum of—” and all that follows and inserting
22 “the standard deduction in effect under section
23 63(e)(1)(B).”.

24 (43) Section 5000A(b)(3)(A) is amended by
25 striking “section 152” and inserting “section 7705”.

1 (44) Section 5000A(c)(4)(A) is amended by
2 striking “the number of individuals for whom the
3 taxpayer is allowed a deduction under section 151
4 (relating to allowance of deduction for personal ex-
5 emptions) for the taxable year” and inserting “the
6 sum of 1 (2 in the case of a joint return) plus the
7 number of the taxpayer’s dependents for the taxable
8 year”.

9 (45) Section 6013(b)(3)(A) is amended—

10 (A) by striking “had less than the exemp-
11 tion amount of gross income” in clause (ii) and
12 inserting “had no gross income”,

13 (B) by striking “had gross income of the
14 exemption amount or more” in clause (iii) and
15 inserting “had any gross income”, and

16 (C) by striking the flush language fol-
17 lowing clause (iii).

18 (46) Section 6103(l)(21)(A)(iii) is amended to
19 read as follows:

20 “(iii) the number of the taxpayer’s de-
21 pendents,”.

22 (47) Section 6213(g)(2) is amended by striking
23 subparagraph (H).

24 (48) Section 6334(d)(2) is amended to read as
25 follows:

1 “(2) EXEMPT AMOUNT.—
2 “(A) IN GENERAL.—For purposes of para-
3 graph (1), the term ‘exempt amount’ means an
4 amount equal to—
5 “(i) the sum of the standard deduc-
6 tion and the personal exemption amount,
7 divided by
8 “(ii) 52.
9 “(B) PERSONAL EXEMPTION AMOUNT.—
10 For purposes of subparagraph (A), the personal
11 exemption amount is \$3,900 multiplied by the
12 number of the taxpayer’s dependents for the
13 taxable year in which the levy occurs.
14 “(C) INFLATION ADJUSTMENT.—In the
15 case of any taxable year beginning after 2014,
16 the \$3,900 amount in subparagraph (B) shall
17 be increased by an amount equal to—
18 “(i) such dollar amount, multiplied by
19 “(ii) the cost-of-living adjustment de-
20 termined under section 1(c)(2)(A) for the
21 calendar year in which the taxable year be-
22 gins.
23 If any increase determined under the preceding
24 sentence is not a multiple of \$100, such in-

1 crease shall be rounded to the next lowest mul-
2 tiple of \$100.

3 “(D) VERIFIED STATEMENT.—Unless the
4 taxpayer submits to the Secretary a written and
5 properly verified statement specifying the facts
6 necessary to determine the proper amount
7 under subparagraph (A), subparagraph (A)
8 shall be applied as if the taxpayer were a mar-
9 ried individual filing a separate return with no
10 dependents.”.

11 (49) Section 7702B(f)(2)(C)(iii) is amended by
12 striking “section 152(d)(2)” and inserting “section
13 7705(d)(2)”.

14 (50) Section 7703(a) is amended by striking
15 “part V of subchapter B of chapter 1 and”.

16 (51) Section 7703(b)(1) is amended by striking
17 “section 152(f)(1)” and all that follows and insert-
18 ing “section 7705(f)(1),”.

19 (52) Section 7705(a), as redesignated by this
20 section, is amended by striking “this subtitle” and
21 inserting “subtitle A”.

22 (53)(A) Section 7705(d)(1)(B), as redesignated
23 by this section, is amended by striking “the exemp-
24 tion amount (as defined in section 151(d))” and in-
25 serting “\$3,900”.

1 (B) Section 7705(d), as redesignated by this
2 section, is amended by adding at the end the fol-
3 lowing new paragraph:

4 “(6) INFLATION ADJUSTMENT.—In the case of
5 any calendar year beginning after 2014, the \$3,900
6 amount in paragraph (1)(B) shall be increased by an
7 amount equal to—

8 “(A) such dollar amount, multiplied by

9 “(B) the cost-of-living adjustment deter-
10 mined under section 1(c)(2)(A) for such cal-
11 endar year.

12 If any increase determined under the preceding sen-
13 tence is not a multiple of \$100, such increase shall
14 be rounded to the next lowest multiple of \$100.”.

15 (54) The table of sections for chapter 79 is
16 amended by adding at the end the following new
17 item:

“Sec. 7705. Dependent defined.”.

18 (h) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2014.

21 **Subtitle C—Simplification of**
22 **Education Incentives**

23 **SEC. 1201. AMERICAN OPPORTUNITY TAX CREDIT.**

24 (a) IN GENERAL.—Section 25A is amended to read
25 as follows:

1 **“SEC. 25A. AMERICAN OPPORTUNITY TAX CREDIT.**

2 “(a) IN GENERAL.—In the case of an individual,
3 there shall be allowed as a credit against the tax imposed
4 by this chapter for the taxable year an amount equal to
5 the sum of—

6 “(1) 100 percent of so much of the qualified
7 tuition and related expenses paid by the taxpayer
8 during the taxable year (for education furnished to
9 any eligible student for whom an election is in effect
10 under this section for such taxable year during any
11 academic period beginning in such taxable year) as
12 does not exceed \$2,000, plus

13 “(2) 25 percent of so much of such expenses so
14 paid as exceeds the dollar amount in effect under
15 paragraph (1) but does not exceed twice such dollar
16 amount.

17 “(b) PORTION OF CREDIT REFUNDABLE.—So much
18 of the credit allowable under subsection (a) (determined
19 without regard to this subsection and section 26(a) and
20 after application of all other provisions of this section) as
21 does not exceed \$1,500 shall be treated as a credit allow-
22 able under subpart C (and not under this part). The pre-
23 ceding sentence shall not apply to any taxpayer for any
24 taxable year if such taxpayer is a child to whom section
25 1(d) applies for such taxable year.

1 “(c) LIMITATION BASED ON MODIFIED ADJUSTED
2 GROSS INCOME.—

3 “(1) IN GENERAL.—The amount allowable as a
4 credit under subsection (a) for any taxable year shall
5 be reduced (but not below zero) by an amount which
6 bears the same ratio to the amount so allowable (de-
7 termined without regard to this subsection and sub-
8 section (b) but after application of all other provi-
9 sions of this section) as—

10 “(A) the excess of—

11 “(i) the taxpayer’s modified adjusted
12 gross income for such taxable year, over

13 “(ii) \$43,000 (twice such amount in
14 the case of a joint return), bears to

15 “(B) \$20,000 (twice such amount in the
16 case of a joint return).

17 “(2) MODIFIED ADJUSTED GROSS INCOME.—

18 For purposes of this subsection, the term ‘modified
19 adjusted gross income’ means the adjusted gross in-
20 come of the taxpayer for the taxable year increased
21 by any amount excluded from gross income under
22 section 911, 931, or 933.

23 “(d) OTHER LIMITATIONS.—

24 “(1) CREDIT ALLOWED ONLY FOR 4 TAXABLE
25 YEARS.—An election to have this section apply may

1 not be made for any taxable year if such an election
2 (by the taxpayer or any other individual) is in effect
3 with respect to such student for any 4 prior taxable
4 years.

5 “(2) CREDIT ALLOWED ONLY FOR FIRST 4
6 YEARS OF POSTSECONDARY EDUCATION.—No credit
7 shall be allowed under subsection (a) for a taxable
8 year with respect to the qualified tuition and related
9 expenses of an eligible student if the student has
10 completed (before the beginning of such taxable
11 year) the first 4 years of postsecondary education at
12 an eligible educational institution.

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

14 “(1) ELIGIBLE STUDENT.— The term ‘eligible
15 student’ means, with respect to any academic period,
16 a student who—

17 “(A) meets the requirements of section
18 484(a)(1) of the Higher Education Act of 1965
19 (20 U.S.C. 1091(a)(1)), as in effect on August
20 5, 1997, and

21 “(B) is carrying at least 1/2 the normal
22 full-time work load for the course of study the
23 student is pursuing.

24 “(2) QUALIFIED TUITION AND RELATED EX-
25 PENSES.—

1 “(A) IN GENERAL.—The term ‘qualified
2 tuition and related expenses’ means tuition,
3 fees, and course materials, required for enroll-
4 ment or attendance of—
5 “(i) the taxpayer,
6 “(ii) the taxpayer’s spouse, or
7 “(iii) any dependent of the taxpayer,
8 at an eligible educational institution for courses
9 of instruction of such individual at such institu-
10 tion.
11 “(B) EXCEPTION FOR EDUCATION INVOLV-
12 ING SPORTS, ETC.—Such term does not include
13 expenses with respect to any course or other
14 education involving sports, games, or hobbies,
15 unless such course or other education is part of
16 the individual’s degree program.
17 “(C) EXCEPTION FOR NONACADEMIC
18 FEES.—Such term does not include student ac-
19 tivity fees, athletic fees, insurance expenses, or
20 other expenses unrelated to an individual’s aca-
21 demic course of instruction.
22 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—
23 The term ‘eligible educational institution’ means an
24 institution—

1 “(A) which is described in section 481 of
2 the Higher Education Act of 1965 (20 U.S.C.
3 1088), as in effect on August 5, 1997, and

4 “(B) which is eligible to participate in a
5 program under title IV of such Act.

6 “(f) SPECIAL RULES.—

7 “(1) IDENTIFICATION REQUIREMENT.—No
8 credit shall be allowed under subsection (a) to a tax-
9 payer with respect to the qualified tuition and re-
10 lated expenses of an individual unless the taxpayer
11 includes the name and taxpayer identification num-
12 ber of such individual, and the employer identifica-
13 tion number of any institution to which such ex-
14 penses were paid, on the return of tax for the tax-
15 able year.

16 “(2) ADJUSTMENT FOR CERTAIN SCHOLAR-
17 SHIPS, ETC.—

18 “(A) IN GENERAL.—The amount of quali-
19 fied tuition and related expenses otherwise
20 taken into account under subsection (a) with re-
21 spect to an individual for an academic period
22 shall be reduced (before the application of sub-
23 section (c)) by the sum of any amounts paid for
24 the benefit of such individual which are allo-
25 cable to such period as—

1 “(i) a qualified scholarship which is
2 excludable from gross income under section
3 117,

4 “(ii) an educational assistance allow-
5 ance under chapter 30, 31, 32, 34, or 35
6 of title 38, United States Code, or under
7 chapter 1606 of title 10, United States
8 Code, and

9 “(iii) a payment (other than a gift,
10 bequest, devise, or inheritance within the
11 meaning of section 102(a)) for such indi-
12 vidual’s educational expenses, or attrib-
13 utable to such individual’s enrollment at an
14 eligible educational institution, which is ex-
15 cludable from gross income under any law
16 of the United States.

17 “(B) COORDINATION WITH PELL GRANTS
18 NOT USED FOR QUALIFIED TUITION AND RE-
19 LATED EXPENSES.—For purposes of subpara-
20 graph (A), the amount of any Federal Pell
21 Grant under section 401 of the Higher Edu-
22 cation Act of 1965 (20 U.S.C. 1070a) shall be
23 reduced (but not below zero) by the amount of
24 expenses (other than qualified tuition and re-
25 lated expenses) which are taken into account in

1 determining the cost of attendance (as defined
2 in section 472 of the Higher Education Act of
3 1965, as in effect on the date of the enactment
4 of this paragraph) of such individual at an eligi-
5 ble educational institution for the academic pe-
6 riod for which the credit under this section is
7 being determined.

8 “(3) TREATMENT OF EXPENSES PAID BY DE-
9 PENDENT.—If an individual is a dependent of an-
10 other taxpayer for a taxable year beginning in the
11 calendar year in which such individual's taxable year
12 begins—

13 “(A) no credit shall be allowed under sub-
14 section (a) to such individual for such individ-
15 ual's taxable year, and

16 “(B) qualified tuition and related expenses
17 paid by such individual during such individual's
18 taxable year shall be treated for purposes of
19 this section as paid by such other taxpayer.

20 “(4) TREATMENT OF CERTAIN PREPAY-
21 MENTS.—If qualified tuition and related expenses
22 are paid by the taxpayer during a taxable year for
23 an academic period which begins during the first 3
24 months following such taxable year, such academic

1 period shall be treated for purposes of this section
2 as beginning during such taxable year.

3 “(5) DENIAL OF DOUBLE BENEFIT.—No credit
4 shall be allowed under this section for any amount
5 for which a deduction is allowed under any other
6 provision of this chapter.

7 “(6) NO CREDIT FOR MARRIED INDIVIDUALS
8 FILING SEPARATE RETURNS.—If the taxpayer is a
9 married individual (within the meaning of section
10 7703), this section shall apply only if the taxpayer
11 and the taxpayer’s spouse file a joint return for the
12 taxable year.

13 “(7) NONRESIDENT ALIENS.—If the taxpayer is
14 a nonresident alien individual for any portion of the
15 taxable year, this section shall apply only if such in-
16 dividual is treated as a resident alien of the United
17 States for purposes of this chapter by reason of an
18 election under subsection (g) or (h) of section 6013.

19 “(g) INFLATION ADJUSTMENT.—

20 “(1) IN GENERAL.—In the case of a taxable
21 year beginning after 2018, the \$2,000 amount in
22 subsection (a)(1), the \$1,500 amount in subsection
23 (b), and the \$43,000 amount in subsection
24 (c)(1)(A)(ii) shall each be increased by an amount
25 equal to—

1 “(A) such dollar amount, multiplied by
2 “(B) the cost-of-living adjustment deter-
3 mined under section 1(c)(2)(A) for the calendar
4 year in which the taxable year begins, deter-
5 mined by substituting ‘calendar year 2017’ for
6 ‘calendar year 2012’ in clause (ii) thereof.

7 “(2) ROUNDING.—If any amount as adjusted
8 under paragraph (1) is not a multiple of \$100
9 (\$1,000 in the case of the amount in subsection
10 (c)(1)(A)(ii)), such amount shall be rounded to the
11 next lowest multiple of \$100 (\$1,000 in the case of
12 the amount in subsection (c)(1)(A)(ii)).

13 “(h) REGULATIONS.—The Secretary may prescribe
14 such regulations or other guidance as may be necessary
15 or appropriate to carry out this section, including regula-
16 tions providing for a recapture of the credit allowed under
17 this section in cases where there is a refund in a subse-
18 quent taxable year of any amount which was taken into
19 account in determining the amount of such credit.”.

20 (b) REQUIREMENT TO REPORT TUITION PAID RATH-
21 ER THAN TUITION BILLED.—Section 6050S(b)(2)(B)(i)
22 is amended by striking “or the aggregate amount billed”.

23 (c) CONFORMING AMENDMENTS.—

1 (1) Section 72(t)(7)(B) of such Code is amend-
2 ed by striking “section 25A(g)(2)” and inserting
3 “section 25A(f)(2)”.

4 (2) Section 529(c)(3)(B)(v)(I) of such Code is
5 amended by striking “section 25A(g)(2)” and insert-
6 ing “section 25A(f)(2)”.

7 (3) Section 529(e)(3)(B)(i) of such Code is
8 amended by striking “section 25A(b)(3)” and insert-
9 ing “section 25A(d)”.

10 (4) Section 530(d)(2)(C) of such Code is
11 amended—

12 (A) by striking “section 25A(g)(2)” in
13 clause (i)(I) and inserting “section 25A(f)(2)”,
14 and

15 (B) by striking “HOPE AND LIFETIME
16 LEARNING CREDITS” in the heading and insert-
17 ing “AMERICAN OPPORTUNITY TAX CREDIT”.

18 (5) Section 530(d)(4)(B)(iii) of such Code is
19 amended by striking “section 25A(g)(2)” and insert-
20 ing “section 25A(d)(4)(B)”.

21 (6) Section 6050S(e) of such Code is amended
22 by striking “subsection (g)(2)” and inserting “sub-
23 section (f)(2)”.

1 (7) Section 6211(b)(4)(A) of such Code is
2 amended by striking “subsection (i)(6)” and insert-
3 ing “subsection (b)”.

4 (8) Section 6213(g)(2)(J) of such Code is
5 amended by striking “TIN required under section
6 25A(g)(1)” and inserting “TIN, and employer iden-
7 tification number, required under section
8 25A(f)(1)”.

9 (9) Section 1004(e) of division B of the Amer-
10 ican Recovery and Reinvestment Tax Act of 2009 is
11 amended—

12 (A) in paragraph (1)—

13 (i) by striking “section 25A(i)(6)”
14 each place it appears and inserting “sec-
15 tion 25A(b)”, and

16 (ii) by striking “with respect to tax-
17 able years beginning after 2008 and before
18 2018” each place it appears and inserting
19 “with respect to each taxable year”,

20 (B) in paragraph (2), by striking “Section
21 25A(i)(6)” and inserting “Section 25A(b)”, and

22 (C) in paragraph (3)(C), by striking “sub-
23 section (i)(6)” and inserting “subsection (b)”.

24 (10) The table of sections for subpart A of part
25 IV of subchapter A of chapter 1 of the Internal Rev-

1 enue Code of 1986 is amended by striking the item
2 relating to section 25A and inserting the following
3 new item:

“Sec. 25A. American opportunity tax credit.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2014.

7 **SEC. 1202. EXPANSION OF PELL GRANT EXCLUSION FROM**
8 **GROSS INCOME.**

9 (a) IN GENERAL.—Paragraph (1) of section 117(b)
10 of the Internal Revenue Code of 1986 is amended—

11 (1) by striking the period at the end and insert-
12 ing “, or”,

13 (2) by striking “received by an individual as a
14 scholarship” and inserting the following: “received
15 by an individual—

16 “(A) as a scholarship”, and

17 (3) by adding at the end the following new sub-
18 paragraph:

19 “(B) as a Federal Pell Grant under section
20 401 of the Higher Education Act of 1965 (20
21 U.S.C. 1070a).”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2014.

1 **SEC. 1203. REPEAL OF EXCLUSION OF INCOME FROM**
2 **UNITED STATES SAVINGS BONDS USED TO**
3 **PAY HIGHER EDUCATION TUITION AND FEES.**

4 (a) IN GENERAL.—Part III of subchapter B of chap-
5 ter 1 is amended by striking section 135 (and by striking
6 the item relating to such section in the table of sections
7 for such part).

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2014.

11 **SEC. 1204. REPEAL OF DEDUCTION FOR INTEREST ON EDU-**
12 **CATION LOANS.**

13 (a) IN GENERAL.—Part VII of subchapter B of chap-
14 ter 1 is amended by striking section 221 (and by striking
15 the item relating to such section in the table of sections
16 for such part).

17 (b) CONFORMING AMENDMENT.—Section 62(a) is
18 amended by striking paragraph (17).

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2014.

22 **SEC. 1205. REPEAL OF DEDUCTION FOR QUALIFIED TUI-**
23 **TION AND RELATED EXPENSES.**

24 (a) IN GENERAL.—Part VII of subchapter B of chap-
25 ter 1 is amended by striking section 222 (and by striking

1 the item relating to such section in the table of sections
2 for such part).

3 (b) CONFORMING AMENDMENT.—Section 62(a) is
4 amended by striking paragraph (18).

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2013.

8 **SEC. 1206. NO NEW CONTRIBUTIONS TO COVERDELL EDU-**
9 **CATION SAVINGS ACCOUNTS.**

10 (a) IN GENERAL.—Section 530(b)(1)(A) is amended
11 to read as follows:

12 “(A) Except in the case of rollover con-
13 tributions, no contribution will be accepted after
14 December 31, 2014.”.

15 (b) ROLLOVERS TO QUALIFIED TUITION PROGRAMS
16 PERMITTED.—Section 530(d)(5) is amended by inserting
17 “, or into (by purchase or contribution) a qualified tuition
18 program (as defined in section 529),” after “into another
19 Coverdell education savings account”.

20 (c) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, the amendments made by
23 this section shall apply to contributions made after
24 December 31, 2014.

1 (2) ROLLOVERS TO QUALIFIED TUITION PRO-
2 GRAMS.—The amendments made by subsection (b)
3 shall apply to distributions after December 31,
4 2014.

5 **SEC. 1207. REPEAL OF EXCLUSION FOR DISCHARGE OF**
6 **STUDENT LOAN INDEBTEDNESS.**

7 (a) IN GENERAL.—Section 108 is amended by strik-
8 ing subsection (f).

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 3121(a)(20) is amended by striking
11 “108(f)(4),”.

12 (2) Section 209(a)(17) of the Social Security
13 Act is amended by striking “108(f)(4),”.

14 (3) Section 3231(e)(5) is amended by striking
15 “108(f)(4),”.

16 (4) Section 3306(b)(16) is amended by striking
17 “108(f)(4),”.

18 (5) Section 3401(a)(19) is amended by striking
19 “108(f)(4),”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to amounts discharged after De-
22 cember 31, 2014.

1 **SEC. 1208. REPEAL OF EXCLUSION FOR QUALIFIED TUI-**
2 **TION REDUCTIONS.**

3 (a) IN GENERAL.—Section 117 is amended by strik-
4 ing subsection (d).

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 117(c)(1) is amended—

7 (A) by striking “subsections (a) and (d)”
8 and inserting “subsection (a)”, and

9 (B) by striking “or qualified tuition reduc-
10 tion”.

11 (2) Section 414(n)(3)(C) is amended by strik-
12 ing “117(d),”.

13 (3) Section 414(t)(2) is amended by striking
14 “117(d),”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2014.

18 **SEC. 1209. REPEAL OF EXCLUSION FOR EDUCATION ASSIST-**
19 **ANCE PROGRAMS.**

20 (a) IN GENERAL.—Part III of subchapter B of chap-
21 ter 1 is amended by striking section 127 (and by striking
22 the item relating to such section in the table of sections
23 for such part).

24 (b) CONFORMING AMENDMENTS.—

25 (1) Section 125(f)(1) is amended by striking
26 “127,”.

1 (2) Section 132(j)(8) is amended by striking
2 “which are not excludable from gross income under
3 section 127”.

4 (3) Section 137(c) is amended to read as fol-
5 lows:

6 “(c) ADOPTION ASSISTANCE PROGRAM.—

7 “(1) IN GENERAL.—For purposes of this sec-
8 tion, an adoption assistance program is a separate
9 written plan of an employer for the exclusive benefit
10 of such employer’s employees under which the em-
11 ployer provides such employees with adoption assist-
12 ance. Except as provided in paragraph (6), such pro-
13 gram must meet the requirements of paragraphs (2),
14 (3), and (4).

15 “(2) ELIGIBILITY.—The program shall benefit
16 employees who qualify under a classification set up
17 by the employer and found by the Secretary not to
18 be discriminatory in favor of employees who are
19 highly compensated employees (within the meaning
20 of section 414(q)) or their dependents. For purposes
21 of this paragraph, there shall be excluded from con-
22 sideration employees not included in the program
23 who are included in a unit of employees covered by
24 an agreement which the Secretary of Labor finds to
25 be a collective bargaining agreement between em-

1 ployee representatives and one or more employers, if
2 there is evidence that adoption assistance benefits
3 were the subject of good faith bargaining between
4 such employee representatives and such employer or
5 employers.

6 “(3) PRINCIPAL SHAREHOLDERS OR OWNERS.—
7 Not more than 5 percent of the amounts paid or in-
8 curred by the employer for adoption assistance dur-
9 ing the year may be provided for the class of individ-
10 uals who are shareholders or owners (or their
11 spouses or dependents), each of whom (on any day
12 of the year) owns more than 5 percent of the stock
13 or of the capital or profits interest in the employer.

14 “(4) NOTIFICATION OF EMPLOYEES.—Reason-
15 able notification of the availability and terms of the
16 program must be provided to eligible employees.

17 “(5) NO FUNDING REQUIRED.—A program re-
18 ferred to in paragraph (1) is not required to be
19 funded.

20 “(6) CERTAIN FEDERAL PROGRAMS.—An adop-
21 tion reimbursement program operated under section
22 1052 of title 10, United States Code (relating to
23 armed forces) or section 514 of title 14, United
24 States Code (relating to members of the Coast

1 Guard) shall be treated as an adoption assistance
2 program for purposes of this section.”.

3 (4) Section 414(n)(3)(C) is amended by strik-
4 ing “127,”.

5 (5) Section 414(t)(2) is amended by striking
6 “127,”.

7 (6) Section 3121(a)(18) is amended by striking
8 “127,”.

9 (7) Section 209(a)(15) of the Social Security
10 Act is amended by striking “127 or”.

11 (8) Section 3231(e) is amended by striking
12 paragraph (6).

13 (9) Section 3306(b)(13) is amended by striking
14 “127,”.

15 (10) Section 3401(a)(18) is amended by strik-
16 ing “127,”.

17 (11) Section 6039D(d)(1) is amended by strik-
18 ing “127,”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to amounts paid or incurred after
21 December 31, 2014.

22 **SEC. 1210. REPEAL OF EXCEPTION TO 10-PERCENT PEN-**
23 **ALTY FOR HIGHER EDUCATION EXPENSES.**

24 (a) IN GENERAL.—Section 72(t)(2) is amended by
25 striking subparagraph (E).

1 (b) CONFORMING AMENDMENT.—Section 72(t) is
2 amended by striking paragraph (7).

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to distributions after December 31,
5 2014.

6 **Subtitle D—Repeal of Certain** 7 **Credits for Individuals**

8 **SEC. 1301. REPEAL OF DEPENDENT CARE CREDIT.**

9 (a) IN GENERAL.—Subpart A of part IV of sub-
10 chapter A of chapter 1 is amended by striking section 21
11 (and by striking the item relating to such section in the
12 table of sections for such subpart).

13 (b) CONFORMING AMENDMENTS.—

14 (1)(A) Section 129(a)(2) is amended by striking
15 subparagraph (C).

16 (B) Section 129(e) is amended by adding at the
17 end the following new paragraph:

18 “(10) MARITAL STATUS.—Rules similar to the
19 rules of subsections (a) and (b) of section 7703 shall
20 apply for purposes of this section.”.

21 (2) Section 129(e)(1) is amended to read as fol-
22 lows:

23 “(1) DEPENDENT CARE ASSISTANCE.—

24 “(A) IN GENERAL.—The term ‘dependent
25 care assistance’ means employment-related ex-

1 penses and the provision of services which con-
2 stitute employment-related expenses.

3 “(B) EMPLOYMENT-RELATED EX-
4 PENSES.—The term ‘employment-related ex-
5 penses’ means amounts paid for the following
6 expenses, but only if such expenses are incurred
7 to enable the employee to be gainfully employed
8 for any period for which there are 1 or more
9 qualifying individuals with respect to the em-
10 ployee:

11 “(i) expenses for household services,
12 and

13 “(ii) expenses for the care of a quali-
14 fying individual.

15 Such term shall not include any amount paid
16 for services outside the employee’s household at
17 a camp where the qualifying individual stays
18 overnight.

19 “(C) EXCEPTION.—Employment-related
20 expenses described in subparagraph (A) which
21 are incurred for services outside the employee’s
22 household shall be taken into account only if in-
23 curred for the care of—

24 “(i) a qualifying individual described
25 in subparagraph (D)(i), or

1 “(ii) a qualifying individual (not de-
2 scribed in subparagraph (D)(i)) who regu-
3 larly spends at least 8 hours each day in
4 the employee’s household.

5 “(D) QUALIFYING INDIVIDUAL.—The term
6 ‘qualifying individual’ means—

7 “(i) a dependent of the taxpayer (as
8 defined in section 7705(a)(1)) who has not
9 attained age 13,

10 “(ii) a dependent of the taxpayer (as
11 defined in section 7705, determined with-
12 out regard to subsections (b)(1), (b)(2),
13 and (d)(1)(B)) who is physically or men-
14 tally incapable of caring for himself or her-
15 self and who has the same principal place
16 of abode as the taxpayer for more than
17 one-half of such taxable year, or

18 “(iii) the spouse of the taxpayer, if
19 the spouse is physically or mentally incapa-
20 ble of caring for himself or herself and who
21 has the same principal place of abode as
22 the taxpayer for more than one-half of
23 such taxable year.

24 “(E) DEPENDENT CARE CENTERS.—Em-
25 ployment-related expenses described in subpara-

1 graph (A) which are incurred for services pro-
2 vided outside the employee's household by a de-
3 pendent care center shall be taken into account
4 only if—

5 “(i) such center complies with all ap-
6 plicable laws and regulations of a State or
7 unit of local government, and

8 “(ii) the requirements of subpara-
9 graph (B) are met.

10 “(F) DEPENDENT CARE CENTER DE-
11 FINED.—For purposes of this paragraph, the
12 term ‘dependent care center’ means any facility
13 which—

14 “(i) provides care for more than six
15 individuals (other than individuals who re-
16 side at the facility), and

17 “(ii) receives a fee, payment, or grant
18 for providing services for any of the indi-
19 viduals (regardless of whether such facility
20 is operated for profit).

21 “(G) PLACE OF ABODE.—For purposes of
22 this paragraph, an individual shall not be treat-
23 ed as having the same principal place of abode
24 as the taxpayer if at any time during the tax-
25 able year of the taxpayer the relationship be-

1 tween the individual and the taxpayer is in vio-
2 lation of local law.

3 “(H) SPECIAL DEPENDENCY TEST IN CASE
4 OF DIVORCED PARENTS, ETC.—If—

5 “(i) section 7705(e) applies to any
6 child with respect to any calendar year,
7 and

8 “(ii) such child is under the age of 13
9 or is physically or mentally incapable of
10 caring for himself, in the case of any tax-
11 able year beginning in such calendar year,
12 such child shall be treated as a qualifying indi-
13 vidual described in clause (i) or (ii) of subpara-
14 graph (D) (whichever is appropriate) with re-
15 spect to the custodial parent (as defined in sec-
16 tion 7705(e)(4)(A)), and shall not be treated as
17 a qualifying individual with respect to the non-
18 custodial parent.”.

19 (3) Section 6213(g)(2)(L) is amended by strik-
20 ing “21,”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2014.

1 **SEC. 1302. REPEAL OF CREDIT FOR ADOPTION EXPENSES.**

2 (a) IN GENERAL.—Subpart A of part IV of sub-
3 chapter A of chapter 1 is amended by striking section 23
4 (and by striking the item relating to such section in the
5 table of sections for such subpart).

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 137 is amended by striking sub-
8 sections (d) and (e).

9 (2) Subsections (d) and (e) of section 23 (prior
10 to being stricken by subsection (a)) are each moved
11 to section 137 (after amendment by paragraph (1))
12 and inserted after subsection (c) as new subsections
13 (d) and (e), respectively.

14 (3) Section 137(d)(1)(D), as amended by para-
15 graphs (1) and (2), is amended by inserting “(deter-
16 mined without regard to reimbursements under this
17 section)” before the period at the end.

18 (4) Section 137(e), as amended by paragraphs
19 (1) and (2), is amended by striking “(as defined in
20 section 217(h)(3))” and inserting “(or any posses-
21 sion of the United States)”.

22 (5) Section 137 is amended by redesignating
23 subsection (f) as subsection (h), and by inserting be-
24 fore subsection (h) (as so redesignated) the following
25 new subsections:

26 “(f) FILING REQUIREMENTS.—

1 “(1) MARRIED COUPLES MUST FILE JOINT RE-
2 TURN.—

3 “(A) IN GENERAL.—If the taxpayer is
4 married at the close of the taxable year, sub-
5 section (a) shall apply to the taxpayer only if
6 the taxpayer and the taxpayer’s spouse file a
7 joint return for the taxable year.

8 “(B) MARITAL STATUS.—Rules similar to
9 the rules of subsections (a) and (b) of section
10 7703 shall apply for purposes of this section.

11 “(2) TAXPAYER MUST INCLUDE TIN.—

12 “(A) IN GENERAL.—Subsection (a) shall
13 apply with respect to any child only if the tax-
14 payer includes (if known) the name, age, and
15 TIN of such child on the return of tax for the
16 taxable year.

17 “(B) OTHER METHODS.—The Secretary
18 may, in lieu of the information referred to in
19 subparagraph (A), require other information
20 meeting the purposes of subparagraph (A), in-
21 cluding identification of an agent assisting with
22 the adoption.

23 “(g) BASIS ADJUSTMENTS.—For purposes of this
24 subtitle, if the amount of any expenditure with respect to
25 any property is excluded from gross income under this sec-

1 tion, the increase in the basis of such property which
2 would (but for this subsection) result from such expendi-
3 ture shall be reduced by the amount of such expenditure
4 which is so excluded.”.

5 (6) Section 1016(a)(26) is amended by striking
6 “sections 23(g) and 137(e)” and inserting “section
7 137(g)”.

8 (c) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendments made by
10 this section shall apply to amounts paid or incurred
11 after December 31, 2014.

12 (2) SPECIAL NEEDS ADOPTIONS.—For purposes
13 of paragraph (1), any amount treated as paid by the
14 taxpayer under section 23(a)(3) of the Internal Rev-
15 enue Code of 1986 (as in effect before its repeal by
16 subsection (a)) shall be treated as paid on the date
17 that the adoption referred to in such section be-
18 comes final.

19 **SEC. 1303. REPEAL OF CREDIT FOR NONBUSINESS ENERGY**
20 **PROPERTY.**

21 (a) IN GENERAL.—Subpart A of part IV of sub-
22 chapter A of chapter 1 is amended by striking section 25C
23 (and by striking the item relating to such section in the
24 table of sections of such subpart).

1 (b) CONFORMING AMENDMENT.—Section 1016(a) is
2 amended by striking paragraph (33).

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to property placed in service after
5 December 31, 2013.

6 **SEC. 1304. REPEAL OF CREDIT FOR RESIDENTIAL ENERGY**
7 **EFFICIENT PROPERTY.**

8 (a) IN GENERAL.—Subpart A of part IV of sub-
9 chapter A of chapter 1 is amended by striking section 25D
10 (and by striking the item relating to such section in the
11 table of sections for such subpart).

12 (b) CONFORMING AMENDMENT.—Section 1016(a) is
13 amended by striking paragraph (34).

14 (c) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to property placed in service after
16 December 31, 2014.

17 **SEC. 1305. REPEAL OF CREDIT FOR QUALIFIED ELECTRIC**
18 **VEHICLES.**

19 (a) IN GENERAL.—Subpart B of part IV of sub-
20 chapter A of chapter 1 is amended by striking section 30
21 (and by striking the item relating to such section in the
22 table of sections of such subpart).

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 1016(a) is amended by striking
25 paragraph (25).

1 (2) Section 6501(m) is amended by striking
2 “section 30(e)(6),”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to vehicles acquired after Decem-
5 ber 31, 2011.

6 **SEC. 1306. REPEAL OF ALTERNATIVE MOTOR VEHICLE**
7 **CREDIT.**

8 (a) IN GENERAL.—Subpart B of part IV of sub-
9 chapter A of chapter 1 is amended by striking section 30B
10 (and by striking the item relating to such section in the
11 table of sections for such subpart).

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 38(b) is amended by striking para-
14 graph (25).

15 (2) Section 1016(a) is amended by striking
16 paragraph (35).

17 (3) Section 6501(m) is amended by striking
18 “30B(h)(9),”.

19 (c) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to property purchased after De-
21 cember 31, 2014.

22 **SEC. 1307. REPEAL OF ALTERNATIVE FUEL VEHICLE RE-**
23 **FUELING PROPERTY CREDIT.**

24 (a) IN GENERAL.—Subpart B of part IV of sub-
25 chapter A of chapter 1 is amended by striking section 30C

1 (and by striking the item relating to such section in the
2 table of sections for such subpart).

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 38(b) is amended by striking para-
5 graph (26).

6 (2) Section 1016(a) is amended by striking
7 paragraph (36).

8 (3) Section 6501(m) is amended by striking
9 “30C(e)(5),”.

10 (c) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to property placed in service after
12 December 31, 2014.

13 **SEC. 1308. REPEAL OF CREDIT FOR NEW QUALIFIED PLUG-**
14 **IN ELECTRIC DRIVE MOTOR VEHICLES.**

15 (a) IN GENERAL.—Subpart B of part IV of sub-
16 chapter A of chapter 1 is amended by striking section 30D
17 (and by striking the item relating to such section in the
18 table of sections for such subpart).

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 38(b) is amended by striking para-
21 graph (35).

22 (2) Section 1016(a) is amended by striking
23 paragraph (37).

24 (3) Section 6501(m) is amended by striking
25 “30D(e)(4),”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to vehicles acquired after Decem-
3 ber 31, 2014.

4 **SEC. 1309. REPEAL OF CREDIT FOR HEALTH INSURANCE**
5 **COSTS OF ELIGIBLE INDIVIDUALS.**

6 (a) IN GENERAL.—Subpart C of part IV of sub-
7 chapter A of chapter 1 is amended by striking section 35
8 (and by striking the item relating to such section in the
9 table of sections of such subpart).

10 (b) CONFORMING AMENDMENTS.—

11 (1) Chapter 77 is amended by striking section
12 7527 (and by striking the item relating to such sec-
13 tion in the table of sections of such chapter).

14 (2) Section 4980B(f)(5)(C)(iv)(II) is amended
15 by inserting “as in effect before its repeal” after
16 “section 35(e)”.

17 (3) Section 6211(b)(4)(A) is amended by strik-
18 ing “35”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to months beginning after Decem-
21 ber 31, 2013.

22 **SEC. 1310. REPEAL OF FIRST-TIME HOMEBUYER CREDIT.**

23 (a) IN GENERAL.—Subpart C of part IV of sub-
24 chapter A of chapter 1 is amended by striking section 36

1 (and by striking the item relating to such section in the
2 table of sections of such subpart).

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 26(b)(2) is amended by striking
5 subparagraph (W).

6 (2) Section 1400C(e) is amended by striking
7 paragraph (4).

8 (3) Section 6211(b)(4)(A) is amended by strik-
9 ing “36.”

10 (4) Section 6213(g)(2) is amended by striking
11 subparagraphs (O) and (P).

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to residences purchased after June
14 30, 2011.

15 **Subtitle E—Deductions, Exclusions,**
16 **and Certain Other Provisions**

17 **SEC. 1401. EXCLUSION OF GAIN FROM SALE OF A PRIN-**
18 **CIPAL RESIDENCE.**

19 (a) REQUIREMENT THAT RESIDENCE BE PRINCIPAL
20 RESIDENCE FOR 5 YEARS DURING 8-YEAR PERIOD.—

21 Subsection (a) of section 121 is amended—

22 (1) by striking “5-year period” and inserting
23 “8-year period”, and

24 (2) by striking “2 years” and inserting “5
25 years”.

1 (b) APPLICATION TO ONLY 1 SALE OR EXCHANGE
2 EVERY 5 YEARS.—Paragraph (3) of section 121(b) is
3 amended to read as follows:

4 “(3) APPLICATION TO ONLY 1 SALE OR EX-
5 CHANGE EVERY 5 YEARS.—Subsection (a) shall not
6 apply to any sale or exchange by the taxpayer if,
7 during the 5-year period ending on the date of such
8 sale or exchange, there was any other sale or ex-
9 change by the taxpayer to which subsection (a) ap-
10 plied.”.

11 (c) PHASEOUT BASED ON MODIFIED ADJUSTED
12 GROSS INCOME.—Section 121 is amended by adding at
13 the end the following new subsection:

14 “(h) PHASEOUT BASED ON MODIFIED ADJUSTED
15 GROSS INCOME.—

16 “(1) IN GENERAL.—If the modified adjusted
17 gross income of the taxpayer for the taxable year ex-
18 ceeds \$250,000 (twice such amount in the case of a
19 joint return), the amount which would (but for this
20 subsection) be excluded from gross income under
21 subsection (a) for such taxable year shall be reduced
22 (but not below zero) by the amount of such excess.

23 “(2) MODIFIED ADJUSTED GROSS INCOME.—
24 For purposes of this subsection, the term ‘modified
25 adjusted gross income’ has the meaning given such

1 term by section 2 determined after the application of
2 this section but without regard to this subsection.”.

3 (d) CONFORMING AMENDMENTS.—

4 (1) The last paragraph of section 121(b) (relat-
5 ing to exclusion of gain allocated to nonqualified
6 use) is redesignated as paragraph (5).

7 (2) The following provisions of section 121 are
8 each amended by striking “5-year period” each place
9 it appears therein and inserting “8-year period”:

10 (A) Subsection (b)(5)(C)(ii)(I) (as redesign-
11 nated by paragraph (1)).

12 (B) Subsection (c)(1)(B)(i)(I).

13 (C) Subsection (d)(7)(B).

14 (D) Subparagraphs (A) and (B) of sub-
15 section (d)(9).

16 (E) Subsection (d)(10)

17 (F) Subsection (d)(12)(A).

18 (3) Section 121(c)(1)(B)(ii) is amended by
19 striking “2 years” and inserting “5 years”:

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to sales and exchanges after De-
22 cember 31, 2014.

23 **SEC. 1402. MORTGAGE INTEREST.**

24 (a) MODIFICATION OF LIMITATIONS.—

1 (1) IN GENERAL.—Paragraph (3) of section
2 163(h) is amended to read as follows:

3 “(3) QUALIFIED RESIDENCE INTEREST.—For
4 purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘qualified
6 residence interest’ means any interest which is
7 paid or accrued during the taxable year on in-
8 debtedness which—

9 “(i) is incurred in acquiring, con-
10 structing, or substantially improving any
11 qualified residence (determined as of the
12 time the interest is accrued) of the tax-
13 payer, and

14 “(ii) is secured by such residence.

15 Such term also includes interest on any indebt-
16 edness secured by such residence resulting from
17 the refinancing of indebtedness meeting the re-
18 quirements of the preceding sentence (or this
19 sentence); but only to the extent the amount of
20 the indebtedness resulting from such refi-
21 nancing does not exceed the amount of the refi-
22 nanced indebtedness.

23 “(B) LIMITATION.—

24 “(i) IN GENERAL.—The aggregate
25 amount of indebtedness taken into account

1 under subparagraph (A) for any period
 2 shall not exceed \$500,000 (half of such
 3 amount in the case of a married individual
 4 filing a separate return).

5 “(ii) PHASE-IN OF DECREASED LIM-
 6 TATION.—For purposes of applying clause
 7 (i) with respect to any indebtedness in-
 8 curred during a calendar year after 2014
 9 and before 2018, the \$500,000 amount in
 10 clause (i) shall be increased by the phase-
 11 in amount determined in accordance with
 12 the following table:

“In the case of indebtedness incurred during:	The phase-in amount is:
2015	\$375,000
2016	\$250,000
2017	\$125,000

13 “(iii) TREATMENT OF REFINANCINGS
 14 OF INDEBTEDNESS INCURRED DURING
 15 PHASE-IN PERIOD.—In the case of any in-
 16 debtedness which is incurred to refinance
 17 indebtedness to which clause (ii) applies
 18 (or to which this clause applies), such refi-
 19 nanced indebtedness shall be treated for
 20 purposes of clause (ii) as incurred on the
 21 date that the original indebtedness was in-
 22 curred to the extent the amount of the in-

1 debtedness resulting from such refinancing
2 does not exceed the amount of the refi-
3 nanced indebtedness.

4 “(C) TREATMENT OF INDEBTEDNESS IN-
5 CURRED BEFORE JANUARY 1, 2015.—

6 “(i) IN GENERAL.—In the case of any
7 pre-January 1, 2015, indebtedness, this
8 paragraph shall apply as in effect imme-
9 diately before the enactment of the Tax
10 Reform Act of 2014.

11 “(ii) REDUCTION IN DOLLAR LIMITA-
12 TION.—The limitation of subparagraph (B)
13 (after application of clause (ii) thereof)
14 shall be reduced (but not below zero) by
15 the aggregate amount of outstanding pre-
16 January 1, 2015, indebtedness of the tax-
17 payer with respect to which interest is al-
18 lowable as a deduction by reason of this
19 subparagraph.

20 “(iii) PRE-JANUARY 1, 2015, INDEBT-
21 EDNESS.—For purposes of this subpara-
22 graph, the term ‘pre-January 1, 2015, in-
23 debtedness’ means—

24 “(I) any indebtedness incurred
25 before January 1, 2015, and

1 “(II) any indebtedness incurred
2 on or after such date to refinance in-
3 debtedness described in subclause (I)
4 (or refinanced indebtedness meeting
5 the requirements of this subclause) to
6 the extent the amount of the indebt-
7 edness resulting from such refinancing
8 does not exceed the amount of the re-
9 financed indebtedness.

10 “(D) LIMITATION ON PERIOD OF REFI-
11 NANCING.—Subparagraphs (B)(iii) and
12 (C)(iii)(II) shall not apply to any indebtedness
13 after—

14 “(i) the expiration of the term of the
15 original indebtedness, or

16 “(ii) if the principal of such original
17 indebtedness is not amortized over its
18 term, the expiration of the term of the 1st
19 refinancing of such indebtedness (or if ear-
20 lier, the date which is 30 years after the
21 date of such 1st refinancing).

22 “(E) COORDINATION WITH CERTAIN EX-
23 CLUSIONS.—The amount otherwise treated as
24 qualified residence interest (determined without
25 regard to this subparagraph) with respect to

1 any residence of the taxpayer for any taxable
2 year shall be reduced by the sum of the
3 amounts excludable from the gross income of
4 such taxpayer under sections 107 and 119 with
5 respect to such residence.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 108(h)(2) is amended to read
8 as follows:

9 “(2) QUALIFIED PRINCIPAL RESIDENCE IN-
10 DEBTEDNESS.—For purposes of this section, the
11 term ‘qualified principal residence indebtedness’
12 means indebtedness described in section 163(h)(3)
13 applied without regard to clauses (ii) and (iii) of
14 subparagraph (B) thereof and by substituting
15 ‘\$2,000,000’ for ‘\$500,000’ in subparagraph (B)(i)
16 thereof.”.

17 (B) Section 163(h) is amended—

18 (i) by striking subparagraph (E) in
19 paragraph (3),

20 (ii) by striking subparagraphs (E) and
21 (F) in paragraph (4), and

22 (iii) by striking paragraph (5).

23 (C) Section 265(a)(6) is amended—

1 (i) by striking “an amount as—” and
2 all that follows and inserting “an amount
3 as a military housing allowance.”, and

4 (ii) by striking “PARSONAGE AND” in
5 the heading thereof.

6 (b) MODIFICATION OF REPORTING REQUIRE-
7 MENTS.—

8 (1) INFORMATION RETURN REQUIREMENTS.—

9 Paragraph (2) of section 6050H(b) is amended by
10 striking “and” at the end of subparagraph (C), by
11 redesignating subparagraph (D) as subparagraph
12 (F) and by inserting after subparagraph (C) the fol-
13 lowing new subparagraphs:

14 “(D) the amount of outstanding principal
15 on the mortgage as of the beginning of such
16 calendar year,

17 “(E) the date of the origination of the
18 mortgage, and”.

19 (2) STATEMENTS TO INDIVIDUALS.—Paragraph
20 (2) of section 6050H(d) is amended by striking
21 “subsection (b)(2)(C)” and inserting “subpara-
22 graphs (C), (D), and (E) of subsection (b)(2)”.

23 (c) EFFECTIVE DATES.—

24 (1) MODIFICATION OF LIMITATIONS.—

1 (A) IN GENERAL.—The amendments made
2 by subsection (a) shall apply to interest paid or
3 accrued in taxable years beginning after De-
4 cember 31, 2014, with respect to indebtedness
5 incurred before, on, or after such date.

6 (B) TREATMENT OF GRANDFATHERED IN-
7 DEBTEDNESS.—For application of the amend-
8 ments made by subsection (a) to grandfathered
9 indebtedness, see section 163(h)(3)(C) of the
10 Internal Revenue Code of 1986 as amended by
11 this section.

12 (2) MODIFICATION OF REPORTING REQUIRE-
13 MENTS.—The amendments made by subsection (b)
14 shall apply to returns and statements for calendar
15 years after December 31, 2014.

16 **SEC. 1403. CHARITABLE CONTRIBUTIONS.**

17 (a) 2 PERCENT FLOOR ON CHARITABLE DEDUCTION
18 FOR INDIVIDUALS.—Paragraph (3) of section 170(b) is
19 amended to read as follows:

20 “(3) 2 PERCENT FLOOR ON CHARITABLE DE-
21 Duction FOR INDIVIDUALS.—The amount of chari-
22 table contributions taken into account under this
23 section as made by any individual during a taxable
24 year (determined without regard to subsection (d))
25 shall be reduced by 2 percent of the taxpayer’s con-

1 tribution base for such taxable year. Such reduction
2 shall apply—

3 “(A) first, to charitable contributions to
4 which paragraph (1)(B) applies to the extent
5 thereof,

6 “(B) second, to charitable contributions to
7 which paragraph (1)(C) applies to the extent
8 thereof, and

9 “(C) third, to charitable contributions to
10 which paragraph (1)(A) applies to the extent
11 thereof.”.

12 (b) EXTENSION OF TIME FOR MAKING CHARITABLE
13 CONTRIBUTIONS.—Subsection (a) of section 170 is
14 amended by redesignating paragraphs (2) and (3) as para-
15 graphs (3) and (4), respectively, and by inserting after
16 paragraph (1) the following new paragraph:

17 “(2) TREATMENT OF CHARITABLE CONTRIBU-
18 TIONS MADE BY INDIVIDUALS BEFORE DUE DATE OF
19 RETURN.—If any charitable contribution is made by
20 an individual after the close of a taxable year but
21 not later than the due date (determined without re-
22 gard to extensions) for the return of tax for such
23 taxable year, then the taxpayer may elect to treat
24 such charitable contribution as made in such taxable
25 year. Such election may be made only at the time of

1 the filing of such return of tax and shall be signified
2 in such manner as the Secretary may provide.”.

3 (c) DEDUCTION FOR CONTRIBUTIONS OF PROPERTY
4 GENERALLY LIMITED TO ADJUSTED BASIS.—

5 (1) IN GENERAL.—Subsection (e) of section
6 170 is amended—

7 (A) by striking paragraphs (1) and (6),
8 (B) by redesignating paragraphs (2), (3),
9 (4), and (5) as paragraphs (3), (4), (5), and
10 (6), respectively, and

11 (C) by inserting before paragraph (3) (as
12 so redesignated) the following new paragraphs:

13 “(1) IN GENERAL.—Except in the case of prop-
14 erty to which paragraph (2) applies, the amount of
15 any charitable contribution of property otherwise
16 taken into account under this section shall be re-
17 duced by the amount of gain which would have been
18 realized if the property contributed had been sold by
19 the taxpayer for its fair market value (determined at
20 the time of such contribution).

21 “(2) SPECIAL RULE FOR CERTAIN PROPERTY.—

22 “(A) IN GENERAL.—In the case of prop-
23 erty to which this paragraph applies, the
24 amount of any charitable contribution of prop-
25 erty otherwise taken into account under this

1 section shall be reduced by the amount of gain
2 which would not have been long-term capital
3 gain if the property contributed had been sold
4 by the taxpayer at its fair market value (deter-
5 mined at the time of such contribution).

6 “(B) PROPERTY TO WHICH THIS PARA-
7 GRAPH APPLIES.—This paragraph shall apply
8 to—

9 “(i) any contribution of tangible per-
10 sonal property if the use of such property
11 by the donee is related to the purpose or
12 function constituting the basis for its ex-
13 emption under section 501 (or, in the case
14 of a governmental unit, to any purpose or
15 function described in subsection (c)),

16 “(ii) any qualified conservation con-
17 tribution (as defined in subsection (h)(1)),

18 “(iii) any qualified contribution (as
19 defined in paragraph (4)(A)),

20 “(iv) any qualified research contribu-
21 tion (as defined in paragraph (5)(B)), and

22 “(v) any qualified appreciated stock
23 (as defined in subsection (e)(6)).

24 “(C) SPECIAL RULES FOR DETERMINING
25 LONG-TERM CAPITAL GAIN.—

1 “(i) IN GENERAL.—For purposes of
2 applying this paragraph (other than in the
3 case of gain to which section 1245(a),
4 1250(a), 1252(a), or 1254(a) applies),
5 property which is property used in the
6 trade or business (as defined in section
7 1231(b)) shall be treated as a capital
8 asset.

9 “(ii) CONTRIBUTIONS OF STOCK IN S
10 CORPORATIONS.—For purposes of applying
11 this paragraph in the case of a charitable
12 contribution of stock in an S corporation,
13 rules similar to the rules of section 751
14 shall apply in determining whether gain on
15 such stock would have been long-term cap-
16 ital gain if such stock were sold by the tax-
17 payer.”.

18 (2) REPEAL OF SPECIAL RULES FOR FOOD AND
19 BOOK INVENTORY.—Paragraph (4) of section
20 170(e), as redesignated by paragraph (1), is amend-
21 ed by striking subparagraphs (C) and (D) and by re-
22 designating subparagraph (E) as subparagraph (C).

23 (3) CONFORMING AMENDMENTS.—

24 (A) Section 170(e)(3), as redesignated by
25 paragraph (1), is amended by striking “para-

1 graph (1)” and inserting “paragraphs (1) and
2 (2)”.

3 (B) Paragraphs (4) and (5) of section
4 170(e), as redesignated by paragraph (1), are
5 each amended by striking “paragraph (1)(A)”
6 each place it appears and inserting “paragraph
7 (2)(A)”.

8 (C) Section 170(e)(6), as redesignated by
9 paragraph (1), is amended—

10 (i) by striking all that precedes “for
11 purposes of this paragraph” in subpara-
12 graph (B) and inserting the following:

13 “(6) QUALIFIED APPRECIATED STOCK.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B),”

16 (ii) by redesignating subparagraph
17 (C) as subparagraph (B), and

18 (iii) by striking “in a contribution to
19 which paragraph (1)(B)(ii) applies (deter-
20 mined without regard to this paragraph)”
21 in subparagraph (B) as so redesignated.

22 (d) MODIFICATION OF INCOME BASED CONTRIBU-
23 TION LIMITATIONS.—

24 (1) IN GENERAL.—Section 170(b)(1) is amend-
25 ed—

- 1 (A) by striking “30 percent” in subpara-
2 graph (B)(i) and inserting “25 percent”, and
3 (B) by striking “50 percent” and inserting
4 “40 percent” in—
5 (i) the flush matter at the end of sub-
6 paragraph (A),
7 (ii) subparagraph (B)(ii), and
8 (iii) clauses (i), (iv)(I), and (v) of sub-
9 paragraph (C) (as redesignated by para-
10 graph (2)).

11 (2) REPEAL OF SPECIAL LIMITATIONS FOR CER-
12 TAIN CAPITAL GAIN PROPERTY.—

13 (A) IN GENERAL.—Paragraph (1) of sec-
14 tion 170(b) is amended by striking subpara-
15 graphs (C) and (D) and by redesignating sub-
16 paragraphs (E), (F), and (G) as subparagraphs
17 (C), (D), and (E), respectively.

18 (B) CONFORMING AMENDMENTS.—

- 19 (i) Section 170(b)(1)(A)(vii) is
20 amended by striking “subparagraph (F)”
21 and inserting “subparagraph (D)”
22 (ii) Section 170(b)(1)(B)(ii) is amend-
23 ed by striking “(determined without regard
24 to subparagraph (C))”.

1 (iii) Section 170(b)(1)(C)(iii), as re-
2 designated by paragraph (1), is amended
3 by striking “subparagraph (A), (B), (C) or
4 (D)” and inserting “subparagraph (A) or
5 (B)”.

6 (iv) Section 170(b)(2)(B)(i)(I) is
7 amended by striking “paragraph
8 (1)(E)(v)” and inserting “paragraph
9 (1)(C)(v)”.

10 (v) Section 545(b)(2) is amended by
11 striking “(D), and (E)” and inserting “and
12 (C)”.

13 (e) QUALIFIED CONSERVATION CONTRIBUTIONS.—

14 (1) RULES MADE PERMANENT.—

15 (A) IN GENERAL.—Subparagraph (C) of
16 section 170(b)(1), as redesignated by subsection
17 (d), is amended by striking clause (vi).

18 (B) CORPORATE FARMERS AND RANCH-
19 ERS.—Subparagraph (B) of section 170(b)(2) is
20 amended by striking clause (iii).

21 (2) TREATMENT OF GOLF COURSE EASE-
22 MENTS.—Subsection (h) of section 170 is amended
23 by adding at the end the following new paragraph:

24 “(7) SPECIAL RULE WITH RESPECT TO GOLF
25 COURSES.—An interest in real property shall not be

1 treated as a qualified real property interest for pur-
2 poses of this subsection if (at the time of the con-
3 tribution of such interest) such property is, or is
4 reasonably expected to be, used as a golf course.”.

5 (3) CONFORMING AMENDMENTS.—

6 (A) Section 170(b)(1)(C)(iv)(II), as reded-
7 icated by subsection (d), is amended by strik-
8 ing “made after the date of the enactment of
9 this subparagraph”.

10 (B) Section 170(b)(2)(B)(i)(II) is amended
11 by striking “, in the case of contributions made
12 after the date of the enactment of this subpara-
13 graph,”.

14 (f) REPEAL OF SPECIAL RULE FOR COLLEGE ATH-
15 LETIC EVENT SEATING RIGHTS.—Section 170 is amended
16 by striking subsection (l).

17 (g) REPEAL OF SPECIAL RULE TREATING DONEE
18 INCOME FROM INTELLECTUAL PROPERTY AS AN ADDI-
19 TIONAL CHARITABLE CONTRIBUTIONS.—

20 (1) IN GENERAL.—Section 170 is amended by
21 striking subsection (m).

22 (2) CONFORMING AMENDMENTS.—Section
23 6050L is amended—

24 (A) by striking subsection (b) and redesign-
25 ating subsection (c) as subsection (b), and

1 (B) by striking “or (b)” in subsection (b)
2 (as redesignated by subparagraph (A)).

3 (h) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, the amendments made by
6 this section shall apply to contributions made in tax-
7 able years beginning after December 31, 2014.

8 (2) QUALIFIED CONSERVATION CONTRIBU-
9 TIONS.—The amendments made by subsection (e)
10 shall apply to contributions made in taxable years
11 beginning after December 31, 2013.

12 **SEC. 1404. DENIAL OF DEDUCTION FOR EXPENSES ATTRIB-**
13 **UTABLE TO THE TRADE OR BUSINESS OF**
14 **BEING AN EMPLOYEE.**

15 (a) IN GENERAL.—Part IX of subchapter B of chap-
16 ter 1 is amended by inserting after the item relating to
17 section 262 the following new item:

18 **“SEC. 262A. EXPENSES ATTRIBUTABLE TO BEING AN EM-**
19 **PLOYEE.**

20 “(a) IN GENERAL.—Except as otherwise provided in
21 this section, no deduction shall be allowed with respect to
22 any trade or business of the taxpayer which consists of
23 the performance of services by the taxpayer as an em-
24 ployee.

1 “(b) EXCEPTION FOR ABOVE-THE-LINE DEDUC-
2 TIONS.—Subsection (a) shall not apply to any deduction
3 allowable (determined without regard to subsection (a)) in
4 determining adjusted gross income.”.

5 (b) REPEAL OF CERTAIN ABOVE-THE-LINE TRADE
6 AND BUSINESS DEDUCTIONS OF EMPLOYEES.—

7 (1) IN GENERAL.—Paragraph (2) of section
8 62(a) is amended—

9 (A) by striking subparagraphs (B), (C),
10 and (D), and

11 (B) by redesignating subparagraph (E) as
12 subparagraph (B).

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 62 is amended by striking sub-
15 sections (b) and (d) and by redesignating sub-
16 sections (c) and (e) as subsections (b) and (c),
17 respectively.

18 (B) Section 62(a)(20) is amended by strik-
19 ing “subsection (e)” and inserting “subsection
20 (c)”.

21 (c) CONTINUED EXCLUSION OF WORKING CONDI-
22 TION FRINGE BENEFITS.—Section 132(d) is amended by
23 inserting “(determined without regard to section 262A)”
24 after “section 162”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 1405. REPEAL OF DEDUCTION FOR TAXES NOT PAID**
5 **OR ACCRUED IN A TRADE OR BUSINESS.**

6 (a) IN GENERAL.—Subsection (b) of section 164 is
7 amended by striking paragraphs (5) and (6) and inserting
8 the following new paragraph:

9 “(5) LIMITATION IN CASE OF INDIVIDUALS.—In
10 the case of a taxpayer other than a corporation—

11 “(A) paragraphs (1) and (2) of subsection
12 (a) shall only apply to taxes which are paid or
13 accrued in carrying on a trade or business or
14 an activity described in section 212, and

15 “(B) paragraph (3) of subsection (a) shall
16 not apply to State and local taxes.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 164(a) is amended by striking para-
19 graph (6).

20 (2)(A) Section 216(a) is amended by striking
21 “proportionate share of—” and all that follows and
22 inserting “proportionate share of the interest allow-
23 able as a deduction to the corporation under section
24 163 which is paid or incurred by the corporation on
25 its indebtedness contracted—

1 “(1) in the acquisition, construction, alteration,
2 rehabilitation, or maintenance of the houses or
3 apartment building, or

4 “(2) in the acquisition of the land on which the
5 houses (or apartment building) are situated.”.

6 (B) Section 216(b)(3)(B)(i) is amended—

7 (i) by striking “a share of such corpora-
8 tion’s real estate taxes described in subsection
9 (a)(1) or” in subclause (I), and

10 (ii) by striking “of such taxes, or of such
11 interest,” in subclause (II) and inserting “of
12 such interest”.

13 (C) Section 216(d) is amended by striking
14 “subsections (a)(1) and (a)(2)” and inserting “sub-
15 section (a)”.

16 (3) Section 274(f) is amended by striking
17 “TAXES,” in the heading thereof.

18 (4) Section 280A(b) is amended by striking
19 “TAXES,” in the heading thereof.

20 (5) Section 911(e)(3)(A)(ii) is amended—

21 (A) by striking “and taxes”, and

22 (B) by striking “or 164”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2014.

1 **SEC. 1406. REPEAL OF DEDUCTION FOR PERSONAL CAS-**
2 **UALTY LOSSES.**

3 (a) IN GENERAL.—Subsection (c) of section 165 is
4 amended by inserting “and” at the end of paragraph (1),
5 by striking “; and” at the end of paragraph (2) and insert-
6 ing a period, and by striking paragraph (3).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 165 is amended by striking sub-
9 sections (h) and (k).

10 (2) Subsection (i) of section 165 is amended—

11 (A) in paragraph (1)—

12 (i) by striking “(as defined by clause

13 (ii) of subsection (h)(3)(C))”, and

14 (ii) by striking “(as defined by clause

15 (i) of such subsection)”,

16 (B) by striking “(as defined by subsection

17 (h)(3)(C)(i)” in paragraph (4), and

18 (C) by adding at the end the following new
19 paragraph:

20 “(5) **FEDERALLY DECLARED DISASTER.**—For
21 purposes of this subsection—

22 “(A) **FEDERALLY DECLARED DISASTER.**—

23 The term ‘federally declared disaster’ means

24 any disaster subsequently determined by the

25 President of the United States to warrant as-

26 sistance by the Federal Government under the

1 Robert T. Stafford Disaster Relief and Emer-
2 gency Assistance Act.

3 “(B) DISASTER AREA.—The term ‘disaster
4 area’ means the area so determined to warrant
5 such assistance.”.

6 (3)(A) Section 165(l)(1) is amended by striking
7 “a loss described in subsection (c)(3)” and inserting
8 “an ordinary loss described in subsection (c)(2)”.

9 (B) Section 165(l) is amended—

10 (i) by striking paragraph (5),

11 (ii) by redesignating paragraphs (2), (3),
12 and (4) as paragraphs (3), (4), and (5), respec-
13 tively, and

14 (iii) by inserting after paragraph (1) the
15 following new paragraph:

16 “(2) LIMITATIONS.—

17 “(A) DEPOSIT MAY NOT BE FEDERALLY
18 INSURED.—No election may be made under
19 paragraph (1) with respect to any loss on a de-
20 posit in a qualified financial institution if part
21 or all of such deposit is insured under Federal
22 law.

23 “(B) DOLLAR LIMITATION.—With respect
24 to each financial institution, the aggregate
25 amount of losses attributable to deposits in

1 such financial institution to which an election
2 under paragraph (1) may be made by the tax-
3 payer for any taxable year shall not exceed
4 \$20,000 (\$10,000 in the case of a separate re-
5 turn by a married individual). The limitation of
6 the preceding sentence shall be reduced by the
7 amount of any insurance proceeds under any
8 State law which can reasonably be expected to
9 be received with respect to losses on deposits in
10 such institution.”.

11 (4) Section 172(b)(1)(F)(ii), prior to redesigna-
12 tion under title III, is amended—

13 (A) by striking subclause (I) and by redesi-
14 gnating subclauses (II) and (III) as subclauses
15 (I) and (II), respectively, and

16 (B) by striking “subsection (h)(3)(C)(i)”
17 and inserting “section 165(i)(5)”.

18 (5) Section 172(d)(4)(C) is amended by strik-
19 ing “paragraph (2) or (3) of section 165(c)” and in-
20 serting “section 165(c)(2)”.

21 (6) Section 274(f) is amended by striking
22 “CASUALTY LOSSES,” in the heading thereof.

23 (7) Section 280A(b) is amended by striking
24 “CASUALTY LOSSES,” in the heading thereof.

1 (8) Section 873(b), as amended by the pre-
2 ceding provisions of this Act, is amended by striking
3 paragraph (1) and by redesignating paragraphs (2)
4 and (3) as paragraphs (1) and (2), respectively.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2014.

8 **SEC. 1407. LIMITATION ON WAGERING LOSSES.**

9 (a) IN GENERAL.—Section 165(d) is amended by
10 adding at the end the following: “For purposes of the pre-
11 ceding sentence, the term ‘losses from wagering trans-
12 actions’ includes any deduction otherwise allowable under
13 this chapter incurred in carrying on any wagering trans-
14 action.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2014.

18 **SEC. 1408. REPEAL OF DEDUCTION FOR TAX PREPARATION**
19 **EXPENSES.**

20 (a) IN GENERAL.—Section 212 is amended by adding
21 “or” at the end of paragraph (1), by striking “; or” at
22 the end of paragraph (2) and inserting a period, and by
23 striking paragraph (3).

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 1409. REPEAL OF DEDUCTION FOR MEDICAL EX-**
5 **PENSES.**

6 (a) IN GENERAL.—Part VII of subchapter B of chap-
7 ter 1 is amended by striking section 213 (and by striking
8 the item relating to such section in the table of sections
9 for such part).

10 (b) CONFORMING AMENDMENTS.—

11 (1)(A) Section 223 is amended by redesignating
12 subsections (e), (f), (g), and (h) as subsections (f),
13 (g), (h), and (i), respectively, and by inserting after
14 subsection (d) the following new subsection:

15 “(e) MEDICAL CARE.—For purposes of this section—
16 “(1) IN GENERAL.—The term ‘medical care’
17 means amounts paid—

18 “(A) for the diagnosis, cure, mitigation,
19 treatment, or prevention of disease, or for the
20 purpose of affecting any structure or function
21 of the body,

22 “(B) for transportation primarily for and
23 essential to medical care referred to in subpara-
24 graph (A),

1 “(C) for qualified long-term care services
2 (as defined in section 7702B(c)), or

3 “(D) for insurance (including amounts
4 paid as premiums under part B of title XVIII
5 of the Social Security Act, relating to supple-
6 mentary medical insurance for the aged) cov-
7 ering medical care referred to in subparagraphs
8 (A) and (B) or for any qualified long-term care
9 insurance contract (as defined in section
10 7702B(b)).

11 In the case of a qualified long-term care insurance
12 contract (as defined in section 7702B(b)), only eligi-
13 ble long-term care premiums (as defined in para-
14 graph (7)) shall be taken into account under sub-
15 paragraph (D).

16 “(2) AMOUNTS PAID FOR CERTAIN LODGING
17 AWAY FROM HOME TREATED AS PAID FOR MEDICAL
18 CARE.—Amounts paid for lodging (not lavish or ex-
19 travagant under the circumstances) while away from
20 home primarily for and essential to medical care re-
21 ferred to in paragraph (1)(A) shall be treated as
22 amounts paid for medical care if—

23 “(A) the medical care referred to in para-
24 graph (1)(A) is provided by a physician in a li-
25 censed hospital (or in a medical care facility

1 which is related to, or the equivalent of, a li-
2 censed hospital), and

3 “(B) there is no significant element of per-
4 sonal pleasure, recreation, or vacation in the
5 travel away from home.

6 The amount taken into account under the preceding
7 sentence shall not exceed \$50 for each night for each
8 individual.

9 “(3) PHYSICIAN.—The term ‘physician’ has the
10 meaning given to such term by section 1861(r) of
11 the Social Security Act (42 U.S.C. 1395x(r)).

12 “(4) CONTRACTS COVERING OTHER THAN MED-
13 ICAL CARE.—In the case of an insurance contract
14 under which amounts are payable for other than
15 medical care referred to in subparagraphs (A), (B)
16 and (C) of paragraph (1)—

17 “(A) no amount shall be treated as paid
18 for insurance to which paragraph (1)(D) applies
19 unless the charge for such insurance is either
20 separately stated in the contract, or furnished
21 to the policyholder by the insurance company in
22 a separate statement,

23 “(B) the amount taken into account as the
24 amount paid for such insurance shall not exceed
25 such charge, and

1 “(C) no amount shall be treated as paid
2 for such insurance if the amount specified in
3 the contract (or furnished to the policyholder by
4 the insurance company in a separate statement)
5 as the charge for such insurance is unreason-
6 ably large in relation to the total charges under
7 the contract.

8 “(5) CERTAIN PRE-PAID CONTRACTS.— Subject
9 to the limitations of paragraph (4), premiums paid
10 during the taxable year by a taxpayer before he at-
11 tains the age of 65 for insurance covering medical
12 care (within the meaning of subparagraphs (A), (B),
13 and (C) of paragraph (1)) for the taxpayer, his
14 spouse, or a dependent after the taxpayer attains the
15 age of 65 shall be treated as expenses paid during
16 the taxable year for insurance which constitutes
17 medical care if premiums for such insurance are
18 payable (on a level payment basis) under the con-
19 tract for a period of 10 years or more or until the
20 year in which the taxpayer attains the age of 65
21 (but in no case for a period of less than 5 years).

22 “(6) COSMETIC SURGERY.—

23 “(A) IN GENERAL.—The term ‘medical
24 care’ does not include cosmetic surgery or other
25 similar procedures, unless the surgery or proce-

1 dure is necessary to ameliorate a deformity
 2 arising from, or directly related to, a congenital
 3 abnormality, a personal injury resulting from
 4 an accident or trauma, or disfiguring disease.

5 “(B) COSMETIC SURGERY DEFINED.—For
 6 purposes of this paragraph, the term ‘cosmetic
 7 surgery’ means any procedure which is directed
 8 at improving the patient’s appearance and does
 9 not meaningfully promote the proper function
 10 of the body or prevent or treat illness or dis-
 11 ease.

12 “(7) ELIGIBLE LONG-TERM CARE PREMIUMS.—

13 “(A) IN GENERAL.—For purposes of this
 14 section, the term ‘eligible long-term care pre-
 15 miums’ means the amount paid during a tax-
 16 able year for any qualified long-term care insur-
 17 ance contract (as defined in section 7702B(b))
 18 covering an individual, to the extent such
 19 amount does not exceed the limitation deter-
 20 mined under the following table:

“In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	\$200
More than 40 but not more than 50	\$375
More than 50 but not more than 60	\$750
More than 60 but not more than 70	\$2,000
More than 70	\$2,500

21 “(B) INDEXING.—

1 “(i) IN GENERAL.—In the case of any
2 taxable year beginning after 1997, each
3 dollar amount in subparagraph (A) shall
4 be increased by the medical care cost ad-
5 justment of such amount for such calendar
6 year. Any increase determined under the
7 preceding sentence shall be rounded to the
8 nearest multiple of \$10.

9 “(ii) MEDICAL CARE COST ADJUST-
10 MENT.—For purposes of clause (i), the
11 medical care cost adjustment for any cal-
12 endar year is the adjustment prescribed by
13 the Secretary, in consultation with the Sec-
14 retary of Health and Human Services, for
15 purposes of such clause. To the extent that
16 CPI (as defined section 1(c)), or any com-
17 ponent thereof, is taken into account in de-
18 termining such adjustment, such adjust-
19 ment shall be determined by taking into
20 account C-CPI-U (as so defined), or the
21 corresponding component thereof, in lieu of
22 such CPI (or component thereof), but only
23 with respect to the portion of such adjust-
24 ment which relates to periods after Decem-
25 ber 31, 2014.

1 “(8) CERTAIN PAYMENTS TO RELATIVES
2 TREATED AS NOT PAID FOR MEDICAL CARE.—An
3 amount paid for a qualified long-term care service
4 (as defined in section 7702B(c)) provided to an indi-
5 vidual shall be treated as not paid for medical care
6 if such service is provided—

7 “(A) by the spouse of the individual or by
8 a relative (directly or through a partnership,
9 corporation, or other entity) unless the service
10 is provided by a licensed professional with re-
11 spect to such service, or

12 “(B) by a corporation or partnership which
13 is related (within the meaning of section 267(b)
14 or 707(b)) to the individual.

15 For purposes of this paragraph, the term ‘relative’
16 means an individual bearing a relationship to the in-
17 dividual which is described in any of subparagraphs
18 (A) through (G) of section 7705(d)(2). This para-
19 graph shall not apply for purposes of section 105(b)
20 with respect to reimbursements through insurance.”.

21 (B) Section 72(t)(2)(D)(i)(III) is amended by
22 striking “section 213(d)(1)(D)” and inserting “sec-
23 tion 223(e)(1)(D)”.

1 (C) Section 104(a) is amended by striking “sec-
2 tion 213(d)(1)” in the last sentence and inserting
3 “section 223(e)(1)”.

4 (D) Section 105(b) is amended by striking
5 “section 213(d)” and inserting “section 223(e)”.

6 (E) Section 139D is amended by striking “sec-
7 tion 213” and inserting “section 223”.

8 (F) Section 162(l)(2) is amended by striking
9 “section 213(d)(10)” and inserting “section
10 223(e)(7)”.

11 (G) Section 220(d)(2)(A) is amended by strik-
12 ing “section 213(d)” and inserting “section 223(e)”.

13 (H) Section 223(d)(2)(A) is amended by strik-
14 ing “section 213(d)” and inserting “subsection
15 (e)”.

16 (I) Section 419A(f)(2) is amended by striking
17 “section 213(d)” and inserting “section 223(e)”.

18 (J) Section 501(c)(26)(A) is amended by strik-
19 ing “section 213(d)” and inserting “section 223(e)”.

20 (K) Section 2503(e) is amended by striking
21 “section 213(d)” and inserting “section 223(e)”.

22 (L) Section 4980B(c)(4)(B)(i)(I) is amended by
23 striking “section 213(d)” and inserting “section
24 223(e)”.

1 (M) Section 6041(f) is amended by striking
2 “section 213(d)” and inserting “section 223(e)”.

3 (N) Section 7702B(a)(2) is amended by strik-
4 ing “section 213(d)” and inserting “section 223(e)”.

5 (O) Section 7702B(a)(4) is amended by strik-
6 ing “section 213(d)(1)(D)” and inserting “section
7 223(e)(1)(D)”.

8 (P) Section 7702B(d)(5) is amended by striking
9 “section 213(d)(10)” and inserting “section
10 223(e)(7)”.

11 (Q) Section 9832(d)(3) is amended by striking
12 “section 213(d)” and inserting “section 223(e)”.

13 (2) Section 72(t)(2)(B) is amended to read as
14 follows:

15 “(B) MEDICAL EXPENSES.—Distributions
16 made to an individual (other than distributions
17 described in subparagraph (A), (C), or (D) to
18 the extent such distributions do not exceed the
19 excess of—

20 “(i) the expenses paid by the taxpayer
21 during the taxable year, not compensated
22 for by insurance or otherwise, for medical
23 care (as defined in 223(e)) of the taxpayer,
24 his spouse, or a dependent (as defined in
25 section 7705, determined without regard to

1 subsections (b)(1), (b)(2), and (d)(1)(B)
2 thereof, over

3 “(ii) 10 percent of the taxpayer’s ad-
4 justed gross income.”.

5 (3) Section 105 is amended by striking sub-
6 section (f).

7 (4) Section 162(l) is amended by striking para-
8 graph (3).

9 (5) Section 402(l) is amended by striking para-
10 graph (7) and redesignating paragraph (8) as para-
11 graph (7).

12 (6) Section 220(f) is amended by striking para-
13 graph (6).

14 (7) Section 223(f) is amended by striking para-
15 graph (6).

16 (8) Section 7702B(e) is amended by striking
17 paragraph (2).

18 (9) Section 7705(f)(7), as redesignated by this
19 Act, is amended by striking “sections 105(b),
20 132(h)(2)(B), and 213(d)(5)” and inserting “sec-
21 tions 105(b) and 132(h)(2)(B)”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2014.

1 **SEC. 1410. REPEAL OF DISQUALIFICATION OF EXPENSES**
2 **FOR OVER-THE-COUNTER DRUGS UNDER**
3 **CERTAIN ACCOUNTS AND ARRANGEMENTS.**

4 (a) HSAS.—Subparagraph (A) of section 223(d)(2)
5 is amended by striking the last sentence.

6 (b) ARCHER MSAS.—Subparagraph (A) of section
7 220(d)(2) is amended by striking the last sentence.

8 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
9 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
10 tion 106 is amended by striking subsection (f).

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to expenses incurred after Decem-
13 ber 31, 2014.

14 **SEC. 1411. REPEAL OF DEDUCTION FOR ALIMONY PAY-**
15 **MENTS AND CORRESPONDING INCLUSION IN**
16 **GROSS INCOME.**

17 (a) IN GENERAL.—Part VII of subchapter B of chap-
18 ter 1 is amended by striking section 215 (and by striking
19 the item relating to such section in the table of sections
20 for such part).

21 (b) CORRESPONDING REPEAL OF PROVISIONS PRO-
22 VIDING FOR INCLUSION OF ALIMONY IN GROSS IN-
23 COME.—

24 (1) Subsection (a) of section 61 is amended by
25 striking paragraph (8) and by redesignating para-

1 graphs (9) through (15) as paragraphs (8) through
2 (14), respectively.

3 (2) Part II of subchapter B of chapter 1 is
4 amended by striking section 71 (and by striking the
5 item relating to such section in the table of sections
6 for such part).

7 (3) Subpart F of part I of subchapter J of
8 chapter 1 is amended by striking section 682 (and
9 by striking the item relating to such section in the
10 table of sections for such subpart).

11 (c) CONFORMING AMENDMENTS.—

12 (1) RELATED TO REPEAL OF SECTION 215.—

13 (A) Section 62(a) is amended by striking
14 paragraph (10).

15 (B) Section 3402(m)(1) is amended by
16 striking “(other than paragraph (10) thereof)”.

17 (2) RELATED TO REPEAL OF SECTION 71.—

18 (A) Section 121(d)(3) is amended—

19 (i) by striking “(as defined in section
20 71(b)(2))” in subparagraph (B), and

21 (ii) by adding at the end the following
22 new subparagraph:

23 “(C) DIVORCE OR SEPARATION INSTRU-
24 MENT.—For purposes of this paragraph, the

- 1 term ‘divorce or separation instrument’
2 means—
3 “(i) a decree of divorce or separate
4 maintenance or a written instrument inci-
5 dent to such a decree,
6 “(ii) a written separation agreement,
7 or
8 “(iii) a decree (not described in clause
9 (i)) requiring a spouse to make payments
10 for the support or maintenance of the
11 other spouse.”.
- 12 (B) Section 220(f)(7) is amended by strik-
13 ing “subparagraph (A) of section 71(b)(2)” and
14 inserting “clause (i) of section 121(d)(3)(C)”.
- 15 (C) Section 223(f)(7) is amended by strik-
16 ing “subparagraph (A) of section 71(b)(2)” and
17 inserting “clause (i) of section 121(d)(3)(C)”.
- 18 (D) Section 382(l)(3)(B)(iii) is amended
19 by striking “section 71(b)(2)” and inserting
20 “section 121(d)(3)(C)”.
- 21 (E) Section 408(d)(6) is amended by strik-
22 ing “subparagraph (A) of section 71(b)(2)” and
23 inserting “clause (i) of section 121(d)(3)(C)”.
- 24 (d) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to—

1 (1) any divorce or separation instrument (as de-
2 fined in section 71(b)(2) of the Internal Revenue
3 Code of 1986 as in effect before the date of the en-
4 actment of this Act) executed after December 31,
5 2014, and

6 (2) any divorce or separation instrument (as so
7 defined) executed on or before such date and modi-
8 fied after such date if the modification expressly
9 provides that the amendments made by this section
10 apply to such modification.

11 **SEC. 1412. REPEAL OF DEDUCTION FOR MOVING EX-**
12 **PENSES.**

13 (a) IN GENERAL.—Part VII of subchapter B of chap-
14 ter 1 is amended by striking section 217 (and by striking
15 the item relating to such section in the table of sections
16 for such part).

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 62(a) is amended by striking para-
19 graph (15).

20 (2)(A) Section 132(a) is amended by striking
21 paragraph (6).

22 (B) Section 82 is amended by striking “Except
23 as provided in section 132(a)(6), there” and insert-
24 ing “There”.

1 (3)(A) Section 132 is amended by striking sub-
2 section (g).

3 (B) Section 132(l) is amended by striking by
4 striking “subsections (e) and (g)” and inserting
5 “subsection (e)”.

6 (4) Section 274(m)(3) is amended by striking
7 “(other than section 217)”.

8 (5) Section 3121(a) is amended by striking
9 paragraph (11).

10 (6) Section 209(a) of the Social Security Act is
11 amended by striking paragraph (9).

12 (7) Section 3306(b) is amended by striking
13 paragraph (9).

14 (8) Section 3401(a) is amended by striking
15 paragraph (15).

16 (9) Section 7872(f) is amended by striking
17 paragraph (11).

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2014.

1 **SEC. 1413. TERMINATION OF DEDUCTION AND EXCLUSIONS**
2 **FOR CONTRIBUTIONS TO MEDICAL SAVINGS**
3 **ACCOUNTS.**

4 (a) **TERMINATION OF INCOME TAX DEDUCTION.**—
5 Section 220 is amended by adding at the end the following
6 new subsection:

7 “(k) **TERMINATION.**—No deduction shall be allowed
8 under subsection (a) with respect to any taxable year be-
9 ginning after December 31, 2014.”.

10 (b) **TERMINATION OF EXCLUSION FOR EMPLOYER-**
11 **PROVIDED CONTRIBUTIONS.**—Section 106 is amended by
12 striking subsection (b).

13 (c) **CONFORMING AMENDMENTS.**—

14 (1) Section 62(a) is amended by striking para-
15 graph (16).

16 (2) Section 106(d) is amended by striking para-
17 graph (2), by redesignating paragraph (3) as para-
18 graph (6), and by inserting after paragraph (1) the
19 following new paragraphs:

20 “(2) **NO CONSTRUCTIVE RECEIPT.**—No amount
21 shall be included in the gross income of any em-
22 ployee solely because the employee may choose be-
23 tween the contributions referred to in paragraph (1)
24 and employer contributions to another health plan of
25 the employer.

1 “(3) SPECIAL RULE FOR DEDUCTION OF EM-
2 PLOYER CONTRIBUTIONS.—Any employer contribu-
3 tion to a health savings account (as so defined), if
4 otherwise allowable as a deduction under this chap-
5 ter, shall be allowed only for the taxable year in
6 which paid.

7 “(4) EMPLOYER HEALTH SAVINGS ACCOUNT
8 CONTRIBUTION REQUIRED TO BE SHOWN ON RE-
9 TURN.— Every individual required to file a return
10 under section 6012 for the taxable year shall include
11 on such return the aggregate amount contributed by
12 employers to the health savings accounts (as so de-
13 fined) of such individual or such individual’s spouse
14 for such taxable year.

15 “(5) HEALTH SAVINGS ACCOUNT CONTRIBU-
16 TIONS NOT PART OF COBRA COVERAGE.— Paragraph
17 (1) shall not apply for purposes of section 4980B.”.

18 (3) Section 223(b)(4) is amended by striking
19 subparagraph (A) and by redesignating subpara-
20 graphs (B) and (C) as subparagraphs (A) and (B),
21 respectively.

22 (4) Section 3231(e) is amended by striking
23 paragraph (10) and by redesignating paragraphs
24 (11) and (12) as paragraphs (10) and (11), respec-
25 tively.

1 (5) Section 3306(b) is amended by striking
2 paragraph (17).

3 (6) Section 3401(a) is amended by striking
4 paragraph (21).

5 (7) Chapter 43 is amended by striking section
6 4980E (and by striking the item relating to such
7 section in the table of sections for such chapter).

8 (8) Section 4980G is amended to read as fol-
9 lows:

10 **“SEC. 4980G. FAILURE OF EMPLOYER TO MAKE COM-**
11 **PARABLE HEALTH SAVINGS ACCOUNT CON-**
12 **TRIBUTIONS.**

13 “(a) IN GENERAL.—In the case of an employer who
14 makes a contribution to the health savings account of any
15 employee during a calendar year, there is hereby imposed
16 a tax on the failure of such employer to meet the require-
17 ments of subsection (d) for such calendar year.

18 “(b) AMOUNT OF TAX.—The amount of the tax im-
19 posed by subsection (a) on any failure for any calendar
20 year is the amount equal to 35 percent of the aggregate
21 amount contributed by the employer to health savings ac-
22 counts of employees for taxable years of such employees
23 ending with or within such calendar year.

24 “(c) WAIVER BY SECRETARY.—In the case of a fail-
25 ure which is due to reasonable cause and not to willful

1 neglect, the Secretary may waive part or all of the tax
2 imposed by subsection (a) to the extent that the payment
3 of such tax would be excessive relative to the failure in-
4 volved.

5 “(d) EMPLOYER REQUIRED TO MAKE COMPARABLE
6 HEALTH SAVINGS ACCOUNT CONTRIBUTIONS FOR ALL
7 PARTICIPATING EMPLOYEES.—

8 “(1) IN GENERAL.—An employer meets the re-
9 quirements of this subsection for any calendar year
10 if the employer makes available comparable con-
11 tributions to the health savings accounts of all com-
12 parable participating employees for each coverage
13 period during such calendar year.

14 “(2) COMPARABLE CONTRIBUTIONS.—

15 “(A) IN GENERAL.—For purposes of para-
16 graph (1), the term ‘comparable contributions’
17 means contributions—

18 “(i) which are the same amount, or

19 “(ii) which are the same percentage of
20 the annual deductible limit under the high
21 deductible health plan covering the employ-
22 ees.

23 “(B) PART-YEAR EMPLOYEES.—In the
24 case of an employee who is employed by the em-
25 ployer for only a portion of the calendar year,

1 a contribution to the health savings account of
2 such employee shall be treated as comparable if
3 it is an amount which bears the same ratio to
4 the comparable amount (determined without re-
5 gard to this subparagraph) as such portion
6 bears to the entire calendar year.

7 “(3) COMPARABLE PARTICIPATING EMPLOY-
8 EES.—

9 “(A) IN GENERAL.—For purposes of para-
10 graph (1), the term ‘comparable participating
11 employees’ means all employees—

12 “(i) who are eligible individuals cov-
13 ered under any high deductible health plan
14 of the employer, and

15 “(ii) who have the same category of
16 coverage.

17 “(B) CATEGORIES OF COVERAGE.—For
18 purposes of subparagraph (B), the categories of
19 coverage are self-only and family coverage.

20 “(4) PART-TIME EMPLOYEES.—

21 “(A) IN GENERAL.—Paragraph (3) shall
22 be applied separately with respect to part-time
23 employees and other employees.

24 “(B) PART-TIME EMPLOYEE.—For pur-
25 poses of subparagraph (A), the term ‘part-time

1 employee’ means any employee who is custom-
2 arily employed for fewer than 30 hours per
3 week.

4 “(5) SPECIAL RULE FOR NON-HIGHLY COM-
5 PENSATED EMPLOYEES.—For purposes of applying
6 this section to a contribution to a health savings ac-
7 count of an employee who is not a highly com-
8 pensated employee (as defined in section 414(q)),
9 highly compensated employees shall not be treated
10 as comparable participating employees.

11 “(e) CONTROLLED GROUPS.—For purposes of this
12 section, all persons treated as a single employer under sub-
13 section (b), (c), (m), or (o) of section 414 shall be treated
14 as 1 employer.

15 “(f) DEFINITIONS.—Terms used in this section which
16 are also used in section 223 have the respective meanings
17 given such terms in section 223.

18 “(g) REGULATIONS.—The Secretary shall issue regu-
19 lations to carry out the purposes of this section.”.

20 (9) Section 6051(a) is amended by striking
21 paragraph (11).

22 (10) Section 6051(a)(14)(A) is amended by
23 striking “paragraphs (11) and (12)” and inserting
24 “paragraph (12)”.

1 (d) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 1414. REPEAL OF 2-PERCENT FLOOR ON MISCELLA-**
5 **NEOUS ITEMIZED DEDUCTIONS.**

6 (a) IN GENERAL.—Part 1 of subchapter B of chapter
7 1 is amended by striking section 67 (and the item relating
8 to such section in the table of sections for such part).

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 642(b)(2)(C)(i)(II) is amended to
11 read as follows:

12 “(II) by determining the adjusted
13 gross income of the trust under the
14 rules of section 2(b)(2) (without the
15 reference to section 642(b)).”.

16 (2) Section 162(o) is amended by striking para-
17 graph (2).

18 (3) Section 302(b)(5) is amended by striking
19 “section 67(c)(2)(B)” and inserting “section
20 562(e)(2)”.

21 (4) Section 562(e) is amended—

22 (A) by striking “(as defined in section
23 67(c)(2)(B))”,

24 (B) by striking “(as so defined)”,

1 (C) by striking “Except in the case of”
2 and inserting the following:

3 “(1) IN GENERAL.—Except in the case of”, and

4 (D) by adding at the end the following new
5 paragraph:

6 “(2) PUBLICLY OFFERED REGULATED INVEST-
7 MENT COMPANY.—For purposes of this subsection—

8 “(A) IN GENERAL.—The term ‘publicly of-
9 ferred regulated investment company’ means a
10 regulated investment company the shares of
11 which are—

12 “(i) continuously offered pursuant to
13 a public offering (within the meaning of
14 section 4 of the Securities Act of 1933, as
15 amended (15 U.S.C. 77a to 77aa)),

16 “(ii) regularly traded on an estab-
17 lished securities market, or

18 “(iii) held by or for no fewer than 500
19 persons at all times during the taxable
20 year.

21 “(B) SECRETARY MAY REDUCE 500 PER-
22 SON REQUIREMENT.—The Secretary may by
23 regulation decrease the minimum shareholder
24 requirement of clause (i)(III) in the case of reg-
25 ulated investment companies which experience a

1 loss of shareholders through net redemptions of
2 their shares.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2014.

6 **SEC. 1415. REPEAL OF OVERALL LIMITATION ON ITEMIZED**
7 **DEDUCTIONS.**

8 (a) IN GENERAL.—Part 1 of subchapter B of chapter
9 1 is amended by striking section 68 (and the item relating
10 to such section in the table of sections for such part).

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2014.

14 **SEC. 1416. DEDUCTION FOR AMORTIZABLE BOND PREMIUM**
15 **ALLOWED IN DETERMINING ADJUSTED**
16 **GROSS INCOME.**

17 (a) IN GENERAL.—Subsection (a) of section 62, as
18 amended by section 1411, is amended by inserting after
19 paragraph (9) the following new paragraph:

20 “(10) AMORTIZABLE BOND PREMIUM.—The de-
21 duction allowed under section 171(a)(1).”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2014.

1 **SEC. 1417. REPEAL OF EXCLUSION, ETC., FOR EMPLOYEE**

2 **ACHIEVEMENT AWARDS.**

3 (a) IN GENERAL.—Section 74 is amended by striking
4 subsection (c).

5 (b) REPEAL OF LIMITATION ON DEDUCTION.—Sec-
6 tion 274 is amended by striking subsection (j).

7 (c) CONFORMING AMENDMENTS.—

8 (1) Section 102(c)(2) is amended by striking
9 the first sentence.

10 (2) Section 414(n)(3)(C) is amended by strik-
11 ing “274(j),”.

12 (3) Section 414(t)(2) is amended by striking
13 “274(j),”.

14 (4) Section 3121(a)(20) is amended by striking
15 “74(e),”.

16 (5) Section 209(a)(17) of the Social Security
17 Act is amended by striking “74(e),”.

18 (6) Section 3231(e)(5) is amended by striking
19 “74(e),”.

20 (7) Section 3306(b)(16) is amended by striking
21 “74(e),”.

22 (8) Section 3401(a)(19) is amended by striking
23 “74(e),”.

24 (d) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to taxable years beginning after
26 December 31, 2014.

1 **SEC. 1418. CLARIFICATION OF SPECIAL RULE FOR CERTAIN**
2 **GOVERNMENTAL PLANS.**

3 (a) TREATMENT OF BENEFICIARIES.—Section
4 105(j)(1) is amended—

5 (1) by striking “the taxpayer” and inserting
6 “an employee, spouse, dependent (as defined for
7 purposes of subsection (b)), or child (as so de-
8 fined)”, and

9 (2) by striking “deceased plan participant’s
10 beneficiary” and inserting “deceased employee’s ben-
11 efiary who is not a surviving spouse, dependent (as
12 so defined), or child (as so defined)”.

13 (b) APPLICATION TO POLITICAL SUBDIVISIONS OF
14 STATES.—Section 105(j)(2) is amended—

15 (1) by inserting “or established by or on behalf
16 of a State or political subdivision thereof” after
17 “public retirement system”, and

18 (2) by inserting “or 501(e)(9)” after “section
19 115” in subparagraph (B) thereof.

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

23 **SEC. 1419. LIMITATION ON EXCLUSION FOR EMPLOYER-**
24 **PROVIDED HOUSING.**

25 (a) IN GENERAL.—Section 119 is amended by adding
26 at the end the following new subsection:

1 “(e) LIMITATION ON EXCLUSION OF LODGING.—

2 “(1) IN GENERAL.—The aggregate amount ex-
3 cluded from gross income of the taxpayer under sub-
4 sections (a) and (d) with respect to lodging for any
5 taxable year shall not exceed \$50,000 (half such
6 amount in the case of a married individual filing a
7 separate return).

8 “(2) LIMITATION TO 1 HOME.—Subsections (a)
9 and (d) (separately and in combination) shall not
10 apply with respect to more than 1 residence of the
11 taxpayer at any given time. In the case of a joint re-
12 turn, the preceding sentence shall apply separately
13 to each spouse for any period during which each
14 spouse resides separate from the other spouse in a
15 residence which is provided in connection with the
16 employment of each spouse, respectively.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to taxable years beginning after
19 December 31, 2014.

20 **SEC. 1420. FRINGE BENEFITS.**

21 (a) REPEAL OF SPECIAL RULE FOR AIR TRANSPOR-
22 TATION BY PARENT OF EMPLOYEE.—Subsection (h) of
23 section 132 is amended by striking paragraph (3).

24 (b) TRANSPORTATION AND PARKING.—

25 (1) FREEZE AT CURRENT LEVELS.—

1 (A) IN GENERAL.—Paragraph (2) of sec-
2 tion 132(f) is amended—

3 (i) in subparagraph (A) by striking
4 “\$100” and inserting “\$130”, and

5 (ii) in subparagraph (B) by striking
6 “\$175” and inserting “\$250”.

7 (B) INFLATION ADJUSTMENT.—Subsection
8 (f) of such section is amended by striking para-
9 graph (6) and redesignating paragraph (7) as
10 paragraph (6).

11 (2) REPEAL OF BICYCLE BENEFIT.—

12 (A) IN GENERAL.—Paragraph (1) of sec-
13 tion 132(f) is amended by striking subpara-
14 graph (D).

15 (B) CONFORMING AMENDMENTS.—

16 (i) Section 132(f)(2) is amended by
17 inserting “and” at the end of subpara-
18 graph (A), by striking “and” at the end of
19 subparagraph (B) and inserting a period,
20 and by striking subparagraph (C).

21 (ii) Section 132(f)(4) is amended by
22 striking “(other than a qualified bicycle
23 commuting reimbursement)”.

24 (iii) Section 132(f)(5) is amended by
25 striking subparagraph (F).

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 1421. REPEAL OF EXCLUSION OF NET UNREALIZED AP-
5 PRECIATION IN EMPLOYER SECURITIES.**

6 (a) IN GENERAL.—Section 402(e) is amended by
7 striking paragraph (4).

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 401(k)(10) is amended by striking
10 subparagraph (B) and inserting the following new
11 subparagraphs:

12 “(B) DISTRIBUTIONS MUST BE LUMP SUM
13 DISTRIBUTIONS.—A termination shall not be
14 treated as described in subparagraph (A) with
15 respect to any employee unless the employee re-
16 ceives a lump sum distribution by reason of the
17 termination.

18 “(C) LUMP-SUM DISTRIBUTION DE-
19 FINED.—For purposes of this paragraph—

20 “(i) IN GENERAL.—The term ‘lump
21 sum distribution’ means the distribution or
22 payment within one taxable year of the re-
23 cipient of the balance to the credit of an
24 employee which becomes payable to the re-
25 cipient from a trust which forms a part of

1 a plan described in section 401(a) and
2 which is exempt from tax under section
3 501 or from a plan described in section
4 403(a). Such term includes a distribution
5 of an annuity contract from—

6 “(I) a trust which forms a part
7 of a plan described in section 401(a)
8 and which is exempt from tax under
9 section 501(a), or

10 “(II) an annuity plan described
11 in section 403(a).

12 For purposes of this clause, a distribution
13 to two or more trusts shall be treated as
14 a distribution to one recipient.

15 “(ii) AGGREGATION OF CERTAIN
16 TRUSTS AND PLANS.—For purposes of de-
17 termining the balance to the credit of an
18 employee under clause (i)—

19 “(I) all trusts which are part of
20 a plan shall be treated as a single
21 trust, all pension plans maintained by
22 the employer shall be treated as a sin-
23 gle plan, all profit-sharing plans main-
24 tained by the employer shall be treat-
25 ed as a single plan, and all stock

1 bonus plans maintained by the em-
2 ployer shall be treated as a single
3 plan, and

4 “(II) trusts which are not quali-
5 fied trusts under section 401(a) and
6 annuity contracts which do not satisfy
7 the requirements of section 404(a)(2)
8 shall not be taken into account.

9 “(iii) COMMUNITY PROPERTY LAWS.—
10 The provisions of this subparagraph shall
11 be applied without regard to community
12 property laws.

13 “(iv) BALANCE TO CREDIT OF EM-
14 PLOYEE NOT TO INCLUDE AMOUNTS PAY-
15 ABLE UNDER QUALIFIED DOMESTIC RELA-
16 TIONS ORDER.—The balance to the credit
17 of an employee shall not include any
18 amount payable to an alternate payee
19 under a qualified domestic relations order
20 (within the meaning of section 414(p)).

21 “(v) TRANSFERS TO COST-OF-LIVING
22 ARRANGEMENT NOT TREATED AS DIS-
23 TRIBUTION.—The balance to the credit of
24 an employee under a defined contribution
25 plan shall not include any amount trans-

1 ferred from such defined contribution plan
2 to a qualified cost-of-living arrangement
3 (within the meaning of section 415(k)(2))
4 under a defined benefit plan. (vii)

5 “(vi) LUMP-SUM DISTRIBUTIONS OF
6 ALTERNATE PAYEES.—If any distribution
7 or payment of the balance to the credit of
8 an employee would be treated as a lump-
9 sum distribution, then, for purposes of this
10 paragraph, the payment under a qualified
11 domestic relations order (within the mean-
12 ing of section 414(p)) of the balance to the
13 credit of an alternate payee who is the
14 spouse or former spouse of the employee
15 shall be treated as a lump-sum distribu-
16 tion. For purposes of this clause, the bal-
17 ance to the credit of the alternate payee
18 shall not include any amount payable to
19 the employee.

20 “(vii) EXCLUSION OF ACCUMULATE
21 DEDUCTIBLE EMPLOYEE CONTRIBU-
22 TIONS.— For purposes of this subpara-
23 graph, the balance to the credit of the em-
24 ployee does not include the accumulated
25 deductible employee contributions under

1 the plan (within the meaning of section
2 72(o)(5)).”.

3 (2) Section 3405(e) is amended by striking
4 paragraph (8).

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to distributions after December 31,
7 2014.

8 **SEC. 1422. CONSISTENT BASIS REPORTING BETWEEN ES-**
9 **TATE AND PERSON ACQUIRING PROPERTY**
10 **FROM DECEDENT.**

11 (a) PROPERTY ACQUIRED FROM A DECEDENT.—Sec-
12 tion 1014 is amended by adding at the end the following
13 new subsection:

14 “(f) BASIS MUST BE CONSISTENT WITH ESTATE
15 TAX RETURN.—For purposes of this section—

16 “(1) IN GENERAL.—The basis of any property
17 to which subsection (a) applies shall not exceed—

18 “(A) in the case of property the final value
19 of which has been determined for purposes of
20 the tax imposed by chapter 11 on the estate of
21 such decedent, such value, and

22 “(B) in the case of property not described
23 in subparagraph (A) and with respect to which
24 a statement has been furnished under section

1 6035(a) identifying the value of such property,
2 such value.

3 “(2) EXCEPTION.—Paragraph (1) shall only
4 apply to any property whose inclusion in the dece-
5 dent’s estate increased the liability for the tax im-
6 posed by chapter 11 (reduced by credits allowable
7 against such tax) on such estate.

8 “(3) REGULATIONS.—The Secretary may by
9 regulations provide exceptions to the application of
10 this subsection.”.

11 (b) INFORMATION REPORTING.—

12 (1) IN GENERAL.—Subpart A of part III of
13 subchapter A of chapter 61 is amended by inserting
14 after section 6034A the following new section:

15 **“SEC. 6035. BASIS INFORMATION TO PERSONS ACQUIRING**
16 **PROPERTY FROM DECEDENT.**

17 “(a) INFORMATION WITH RESPECT TO PROPERTY
18 ACQUIRED FROM DECEDENTS.—

19 “(1) IN GENERAL.—The executor of any estate
20 required to file a return under section 6018(a) shall
21 furnish to the Secretary and to each person acquir-
22 ing any interest in property included in the dece-
23 dent’s gross estate for Federal estate tax purposes
24 a statement identifying the value of each interest in
25 such property as reported on such return and such

1 other information with respect to such interest as
2 the Secretary may prescribe.

3 “(2) STATEMENTS BY BENEFICIARIES.—Each
4 person required to file a return under section
5 6018(b) shall furnish to the Secretary and to each
6 other person who holds a legal or beneficial interest
7 in the property to which such return relates a state-
8 ment identifying the information described in para-
9 graph (1).

10 “(3) TIME FOR FURNISHING STATEMENT.—

11 “(A) IN GENERAL.—Each statement re-
12 quired to be furnished under paragraph (1) or
13 (2) shall be furnished at such time as the Sec-
14 retary may prescribe, but in no case at a time
15 later than the earlier of—

16 “(i) the date which is 30 days after
17 the date on which the return under section
18 6018 was required to be filed (including
19 extensions, if any), or

20 “(ii) the date which is 30 days after
21 the date such return is filed.

22 “(B) ADJUSTMENTS.—In any case in
23 which there is an adjustment to the information
24 required to be included on a statement filed
25 under paragraph (1) or (2) after such state-

1 ment has been filed, a supplemental statement
2 under such paragraph shall be filed not later
3 than the date which is 30 days after such ad-
4 justment is made.

5 “(b) REGULATIONS.—The Secretary shall prescribe
6 such regulations as necessary to carry out this section, in-
7 cluding regulations relating to—

8 “(1) the application of this section to property
9 with regard to which no estate tax return is required
10 to be filed, and

11 “(2) situations in which the surviving joint ten-
12 ant or other recipient may have better information
13 than the executor regarding the basis or fair market
14 value of the property.”.

15 (2) PENALTY FOR FAILURE TO FILE.—

16 (A) RETURN.—Section 6724(d)(1) is
17 amended by striking “and” at the end of sub-
18 paragraph (B), by striking the period at the
19 end of subparagraph (C) and inserting “, and”,
20 and by adding at the end the following new sub-
21 paragraph:

22 “(D) any statement required to be filed
23 with the Secretary under section 6035.”.

24 (B) STATEMENT.—Section 6724(d)(2) is
25 amended by striking “or” at the end of sub-

1 paragraph (GG), by striking the period at the
2 end of subparagraph (HH) and inserting “,
3 or”, and by adding at the end the following new
4 subparagraph:

5 “(II) section 6035 (other than a statement
6 described in paragraph (1)(D)).”.

7 (3) CLERICAL AMENDMENT.—The table of sec-
8 tions for subpart A of part III of subchapter A of
9 chapter 61 is amended by inserting after the item
10 relating to section 6034A the following new item:

“Sec. 6035. Basis information to persons acquiring property from decedent.”.

11 (c) PENALTY FOR INCONSISTENT REPORTING.—

12 (1) IN GENERAL.—Subsection (b) of section
13 6662 is amended by inserting after paragraph (7)
14 the following new paragraph:

15 “(8) Any inconsistent estate basis.”.

16 (2) INCONSISTENT BASIS REPORTING.—Section
17 6662 is amended by adding at the end the following
18 new subsection:

19 “(k) INCONSISTENT ESTATE BASIS REPORTING.—

20 For purposes of this section, the term ‘inconsistent estate
21 basis’ means the portion of the understatement which is
22 attributable to in the case of property acquired from a
23 decedent, a basis determination with respect to such prop-
24 erty which is not consistent with the value of such prop-
25 erty as determined under section 1014(f).”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transfers for which an estate
3 tax return is filed after the date of the enactment of this
4 Act.

5 **Subtitle F—Employment Tax**
6 **Modifications**

7 **SEC. 1501. MODIFICATIONS OF DEDUCTION FOR SOCIAL SE-**
8 **CURITY TAXES IN COMPUTING NET EARN-**
9 **INGS FROM SELF-EMPLOYMENT.**

10 (a) IN GENERAL.—Paragraph (12) of section
11 1402(a) is amended to read as follows:

12 “(12) in lieu of the deduction allowable under
13 section 164(f) (relating to deduction for one-half of
14 self-employment taxes), there shall be allowed as a
15 deduction an amount equal to the sum of—

16 “(A) 7.1064 percent of so much of the in-
17 dividual’s net earnings from self-employment
18 for the taxable year (determined without regard
19 to this paragraph) as does not exceed an
20 amount equal to the product of 1.0765 and the
21 excess (if any) of—

22 “(i) the contribution and benefit base
23 (as determined under section 230 of the
24 Social Security Act) in effect for the cal-

1 endar year in which the taxable year be-
2 gins, over

3 “ (ii) the wages (within the meaning of
4 subsection (b)(1)) paid to the individual
5 during such taxable year, plus

6 “(B) 1.4293 percent of the excess (if any)
7 of the individual’s net earnings from self-em-
8 ployment for the taxable year (determined with-
9 out regard to this paragraph) over the amount
10 of such net earnings taken into account under
11 subparagraph (A);”.

12 (b) COORDINATION WITH BENEFITS.—Paragraph
13 (11) of section 211(a) of the Social Security Act is amend-
14 ed to read as follows:

15 “(11) in lieu of the deduction allowable under
16 section 164(f) of the Internal Revenue Code of 1986
17 (relating to deduction for one-half of self-employ-
18 ment taxes), there shall be allowed as a deduction an
19 amount equal to the sum of—

20 “(A) 7.1064 percent of so much of the in-
21 dividual’s net-earnings from self-employment
22 for the taxable year (determined without regard
23 to this paragraph) as does not exceed an
24 amount equal to the product of 1.0765 and the
25 excess (if any) of—

1 “(i) the contribution and benefit base
2 (as determined under section 230) in effect
3 for the calendar year in which the taxable
4 year begins,

5 “(ii) the wages (within the meaning of
6 section 1402(b)(1) of the Internal Revenue
7 Code of 1986) paid to the individual dur-
8 ing such taxable year, plus

9 “(B) 1.4293 percent of the excess (if any)
10 of such net earnings over the amount of such
11 net earnings taken into account under subpara-
12 graph (A);”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2014.

16 **SEC. 1502. DETERMINATION OF NET EARNINGS FROM SELF-**
17 **EMPLOYMENT.**

18 (a) PRO RATA SHARE OF S CORPORATION ITEMS IN-
19 CLUDED AS NET EARNINGS FROM SELF-EMPLOYMENT.—

20 (1) IN GENERAL.—Section 1402(a) is amended
21 by inserting “, plus (notwithstanding subsection
22 (c)(2)) his pro rata share of nonseparately computed
23 income or loss (as defined in section 1366(a)(2))
24 from any trade or business carried on by an S cor-

1 poration in which he is a shareholder” before “; ex-
2 cept that” in the matter preceding paragraph (1).

3 (2) APPLICATION OF ADJUSTMENTS.—Section
4 1402(a) is amended by inserting “and such pro rata
5 share of S corporation nonseparately computed in-
6 come or loss” after “such distributive share of part-
7 nership ordinary income or loss” in the matter pre-
8 ceding paragraph (1).

9 (3) CONFORMING AMENDMENTS.—Section
10 211(a) of the Social Security Act is amended in the
11 matter preceding paragraph (1)—

12 (A) by inserting “, plus (notwithstanding
13 subsection (c)(2)) his pro rata share of non-
14 separately computed income or loss (as defined
15 in section 1366(a)(2) of the Internal Revenue
16 Code of 1986)from any trade or business car-
17 ried on by an S corporation in which he is a
18 shareholder” before “; except that”, and

19 (B) by inserting “and such pro rata share
20 of S corporation nonseparately computed in-
21 come or loss” after “such distributive share of
22 partnership ordinary income or loss”.

23 (b) REPEAL OF EXCEPTION FOR LIMITED PART-
24 NERS.—

1 (1) IN GENERAL.—Section 1402(a) is amended
2 by striking paragraph (13).

3 (2) CONFORMING AMENDMENT.—Section
4 211(a) of the Social Security Act is amended by
5 striking paragraph (12).

6 (c) DEDUCTION FOR RETURN ON INVESTED CAP-
7 ITAL.—

8 (1) IN GENERAL.—Section 1402 is amended by
9 adding at the end the following new subsection:

10 “(m) DEDUCTION FOR RETURN ON INVESTED CAP-
11 ITAL.—

12 “(1) IN GENERAL.—An individual’s net earn-
13 ings from self-employment shall be reduced (but not
14 below zero) by the lesser of—

15 “(A) 30 percent of the sum of—

16 “(i) such individual’s pass-through net
17 earnings from self-employment, and

18 “(ii) such individual’s wages (as de-
19 fined in section 3121) paid with respect to
20 any trade or business carried on by an S
21 corporation in which he is a shareholder,

22 or

23 “(B) such individual’s pass-through net
24 earnings from self-employment.

1 “(2) PASS-THROUGH NET EARNINGS FROM
2 SELF-EMPLOYMENT.—For purposes of this sub-
3 section, the term ‘pass-through net earnings from
4 self-employment’ means net earnings from self-em-
5 ployment (as computed under subsection (a) without
6 regard to this subsection) determined without regard
7 to any trade or business carried on by the individual.

8 “(3) 100 PERCENT DEDUCTION WHERE NO MA-
9 TERIAL PARTICIPATION.—

10 “(A) IN GENERAL.—If an individual does
11 not have material participation with respect to
12 an entity (as determined under subparagraph
13 (B)), in lieu of the reduction provided under
14 paragraph (1) such individual’s net earnings
15 from self-employment shall be reduced (but not
16 below zero) by the sum of—

17 “(i) the reduction determined under
18 paragraph (1) applied—

19 “(I) by substituting ‘100 percent’
20 for ‘30 percent’ in subparagraph (A)
21 thereof, and

22 “(II) by determining pass-
23 through net earnings from self-em-
24 ployment by only taking into account

1 distributive and pro rata shares from
2 non-participation entities, and
3 “(III) by only taking into ac-
4 count under subparagraph (A)(ii)
5 thereof wages paid with respect to
6 trades or businesses carried on by S
7 corporations which are non-participa-
8 tion entities, plus
9 “(ii) the reduction determined under
10 paragraph (1) applied—
11 “(I) by determining pass-through
12 net earnings from self-employment by
13 not taking into account any distribu-
14 tive or pro rata share from a non-par-
15 ticipation entity, and
16 “(II) by not taking into account
17 under subparagraph (A)(ii) thereof
18 any wages paid with respect to trades
19 or businesses carried on by an S cor-
20 poration which is a non-participation
21 entity.
22 “(B) MATERIAL PARTICIPATION.—For
23 purposes of this paragraph—
24 “(i) IN GENERAL.—An individual does
25 not have material participation with re-

1 spect to an entity (hereafter referred to as
2 the top-tier entity) if such individual dem-
3 onstrates to the satisfaction of the Sec-
4 retary that such individual—

5 “(I) does not materially partici-
6 pate (as determined under section
7 469(h) without regard to paragraph
8 (2) thereof) in any activity carried on
9 by such top-tier entity, and

10 “(II) does not materially partici-
11 pate (as so determined) in any activity
12 carried on by any entity in which such
13 top-tier entity holds (directly or indi-
14 rectly) any interest.

15 “(ii) FAMILY ATTRIBUTION.—For
16 purposes of applying clause (i), the partici-
17 pation of any individual in any activity
18 shall also be treated as performed by such
19 individual’s spouse and the lineal descend-
20 ants of such individual and such individ-
21 ual’s spouse.

22 “(C) NON-PARTICIPATION ENTITY.—For
23 purposes of this paragraph, the term ‘non-par-
24 ticipation entity’ means, with respect to any in-
25 dividual, any entity with respect to which such

1 individual does not have material participation
2 (as determined under subparagraph (B)).”.

3 (2) CONFORMING AMENDMENT.—Section 211
4 of the Social Security Act is amended by adding at
5 the end the following new subsection:

6 “(1) DEDUCTION FOR RETURN ON INVESTED CAP-
7 ITAL.—

8 “(1) IN GENERAL.—An individual’s net earn-
9 ings from self-employment shall be reduced (but not
10 below zero) by the lesser of—

11 “(A) 30 percent of the sum of—

12 “(i) such individual’s pass-through net
13 earnings from self-employment, and

14 “(ii) such individual’s wages (as de-
15 fined in section 209) paid with respect to
16 any trade or business carried on by an S
17 corporation in which he is a shareholder,
18 or

19 “(B) such individual’s pass-through net
20 earnings from self-employment.

21 “(2) PASS-THROUGH NET EARNINGS FROM
22 SELF-EMPLOYMENT.—For purposes of this sub-
23 section, the term ‘pass-through net earnings from
24 self-employment’ means net earnings from self-em-
25 ployment (as computed under subsection (a) without

1 regard to this subsection) determined without regard
2 to any trade or business carried on by the individual.

3 “(3) 100 PERCENT DEDUCTION WHERE NO MA-
4 TERIAL PARTICIPATION.—

5 “(A) IN GENERAL.—If an individual does
6 not have material participation with respect to
7 an entity (as determined under subparagraph
8 (B)), in lieu of the reduction provided under
9 paragraph (1) such individual’s net earnings
10 from self-employment shall be reduced (but not
11 below zero) by the sum of—

12 “(i) the reduction determined under
13 paragraph (1) applied—

14 “(I) by substituting ‘100 percent’
15 for ‘30 percent’ in subparagraph (A)
16 thereof, and

17 “(II) by determining pass-
18 through net earnings from self-em-
19 ployment by only taking into account
20 distributive and pro rata shares from
21 non-participation entities, and

22 “(III) by only taking into ac-
23 count under subparagraph (A)(ii)
24 thereof wages paid with respect to
25 trades or businesses carried on by S

1 corporations which are non-participa-
2 tion entities, plus
3 “(ii) the reduction determined under
4 paragraph (1) applied—
5 “(I) by determining pass-through
6 net earnings from self-employment by
7 not taking into account any distribu-
8 tive or pro rata share from a non-
9 participation entity, and
10 “(II) by not taking into account
11 under subparagraph (A)(ii) thereof
12 any wages paid with respect to trades
13 or businesses carried on by an S cor-
14 poration which is a nonparticipation
15 entity.
16 “(B) MATERIAL PARTICIPATION.—For
17 purposes of this paragraph—
18 “(i) IN GENERAL.—An individual does
19 not have material participation with re-
20 spect to an entity (hereafter referred to as
21 the top-tier entity) if such individual dem-
22 onstrates to the satisfaction of the Sec-
23 retary of the Treasury under section
24 1402(m) of the Internal Revenue Code of
25 1986 that such individual—

1 “(I) does not materially partici-
2 pate (as determined under section
3 469(h) of the Internal Revenue Code
4 of 1986 without regard to paragraph
5 (2) thereof) in any activity carried on
6 by such top-tier entity, and

7 “(II) does not materially partici-
8 pate (as so determined) in any activity
9 carried on by any entity in which such
10 top-tier entity holds (directly or indi-
11 rectly) any interest.

12 “(ii) FAMILY ATTRIBUTION.—For
13 purposes of applying clause (i), the partici-
14 pation of any individual in any activity
15 shall also be treated as performed by such
16 individual’s spouse and the lineal descend-
17 ants of such individual and such individ-
18 ual’s spouse.

19 “(C) NONPARTICIPATION ENTITY.—For
20 purposes of this paragraph, the term ‘non-
21 participation entity’ means, with respect to any
22 individual, any entity with respect to which
23 such individual does not have material partici-
24 pation (as determined under subparagraph
25 (B)).”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 1503. REPEAL OF EXEMPTION FROM FICA TAXES FOR**
5 **CERTAIN FOREIGN WORKERS.**

6 (a) IN GENERAL.—Subsection (b) of section 3121 is
7 amended by striking paragraphs (1) and (19).

8 (b) COORDINATION WITH BENEFITS.—Subsection
9 (a) of section 210 of the Social Security Act is amended
10 by striking paragraphs (1) and (19).

11 (c) RAILROAD RETIREMENT TAX.—Paragraph (1) of
12 section 3231(e) is amended by striking the third sentence.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to remuneration received for serv-
15 ices performed after December 31, 2014.

16 **SEC. 1504. REPEAL OF EXEMPTION FROM FICA TAXES FOR**
17 **CERTAIN STUDENTS.**

18 (a) IN GENERAL.—Paragraph (10) of section
19 3121(b) is amended—

20 (1) by inserting “during any calendar year”
21 after “service performed” in the matter preceding
22 subparagraph (A), and

23 (2) by inserting “, and the remuneration paid
24 by the employer with respect to such service during
25 such calendar year is less than the dollar amount in

1 effect under section 213(d) of the Social Security
2 Act (relating to amount required for a quarter of
3 coverage) with respect to such year” before the
4 semicolon at the end.

5 (b) COLLEGE CLUBS, FRATERNITIES, AND SORORI-
6 TIES.—Paragraph (2) of section 3121(b) is amended—

7 (1) by inserting “during any calendar year”
8 after “domestic service performed”, and

9 (2) by inserting “, if the remuneration paid by
10 the employer with respect to such service during
11 such calendar year is less than the dollar amount in
12 effect under section 213(d) of the Social Security
13 Act (relating to amount required for a quarter of
14 coverage) with respect to such year” before the
15 semicolon at the end.

16 (c) DEDUCTION OF TAX FROM WAGES.—Subsection
17 (a) of section 3102 is amended by inserting “; and an em-
18 ployer who in any calendar year pays to an employee re-
19 munerated to which paragraph (2) or (10) of section
20 3121(b) is applicable may deduct an amount equivalent
21 to such tax from any such payment of remuneration, even
22 though at the time of payment the total amount of such
23 remuneration paid to the employee by the employer in the
24 calendar year is less than the dollar amount in effect

1 under section 213(d) of the Social Security Act with re-
2 spect to such year” before the period at the end.

3 (d) COORDINATION WITH BENEFITS.—

4 (1) Paragraph (10) of section 210(a) of the So-
5 cial Security Act is amended—

6 (A) by inserting “during any calendar
7 year” after “Service performed” in the matter
8 preceding subparagraph (A), and

9 (B) by inserting “, and the remuneration
10 paid by the employer with respect to such serv-
11 ice during such calendar year is less than the
12 dollar amount in effect under section 213(d)
13 (relating to amount required for a quarter of
14 coverage) with respect to such year” before the
15 semicolon at the end.

16 (2) Paragraph (2) of section 210(a) of the So-
17 cial Security Act is amended—

18 (A) by inserting “during any calendar
19 year” after “Domestic service performed”, and

20 (B) by inserting “, if the remuneration
21 paid by the employer with respect to such serv-
22 ice during such calendar year is less than the
23 dollar amount in effect under section 213(d)
24 (relating to amount required for a quarter of

1 coverage) with respect to such year” before the
2 semicolon at the end.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to remuneration received for serv-
5 ices performed after December 31, 2014.

6 **SEC. 1505. OVERRIDE OF TREASURY GUIDANCE PROVIDING**
7 **THAT CERTAIN EMPLOYER-PROVIDED SUP-**
8 **PLEMENTAL UNEMPLOYMENT BENEFITS ARE**
9 **NOT SUBJECT TO EMPLOYMENT TAXES.**

10 (a) IN GENERAL.—Effective with respect to amounts
11 paid after December 31, 2014—

12 (1) Revenue Ruling 56-249,

13 (2) Revenue Ruling 58-128,

14 (3) Revenue Ruling 60-330,

15 (4) so much of the holding of Revenue Ruling
16 77-347 as relates to Plan (1) and Plan (2),

17 (5) Revenue Ruling 90-72, and

18 (6) any other ruling, regulation, or other guid-
19 ance provided by the Secretary of the Treasury, or
20 his designee, to the extent that such ruling, regula-
21 tion, or guidance provides that any payment made
22 by an employer by reason of involuntary termination
23 of employment shall not be treated as wages or com-
24 pensation for purposes of any provision of the Inter-
25 nal Revenue Code of 1986,

1 shall be null and void. The preceding sentence shall not
2 apply to the extent a ruling, regulation, or other guidance
3 implements a statutory exception to wages or compensa-
4 tion.

5 (b) REPEAL OF WITHHOLDING REQUIREMENT.—

6 (1) IN GENERAL.—Section 3402(o)(1) is
7 amended by striking subparagraph (A) and by redesi-
8 gnating subparagraphs (B) and (C) as subpara-
9 graphs (A) and (B), respectively.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 3402(o)(2) is amended by
12 striking subparagraph (A) and by redesignating
13 subparagraphs (B) and (C) as subparagraphs
14 (A) and (B), respectively.

15 (B) Section 3402(o)(5)(A) is amended by
16 striking “paragraph (1)(C)” and inserting
17 “paragraph (1)(B)”.

18 (3) EFFECTIVE DATE.—

19 (A) IN GENERAL.—The amendments made
20 by this subsection shall apply to amounts paid
21 after December 31, 2013.

22 (B) NO INFERENCE.—No amendment
23 made by this subsection shall be construed to
24 create any inference with respect to any
25 amounts paid before January 1, 2014.

1 **SEC. 1506. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-**
2 **ZATIONS.**

3 (a) EMPLOYMENT TAXES.—Chapter 25 is amended
4 by adding at the end the following new section:

5 **“SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-**
6 **ZATIONS.**

7 “(a) GENERAL RULES.—For purposes of the taxes
8 and other obligations imposed by this subtitle—

9 “(1) a certified professional employer organiza-
10 tion shall be treated as the employer (and no other
11 person shall be treated as the employer) of any work
12 site employee performing services for any customer
13 of such organization, but only with respect to remun-
14 eration remitted by such organization to such work
15 site employee, and

16 “(2) the exemptions, exclusions, definitions, and
17 other rules which are based on type of employer and
18 which would (but for paragraph (1)) apply shall
19 apply with respect to such taxes imposed on such re-
20 munerated.

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

23 “(1) a certified professional employer organiza-
24 tion entering into a service contract with a customer
25 with respect to a work site employee shall be treated
26 as a successor employer and the customer shall be

1 treated as a predecessor employer during the term
2 of such service contract, and

3 “(2) a customer whose service contract with a
4 certified professional employer organization is termi-
5 nated with respect to a work site employee shall be
6 treated as a successor employer and the certified
7 professional employer organization shall be treated
8 as a predecessor employer.

9 “(c) LIABILITY OF CERTIFIED PROFESSIONAL EM-
10 PLOYER ORGANIZATION.—Solely for purposes of its liabil-
11 ity for the taxes and other obligations imposed by this sub-
12 title—

13 “(1) a certified professional employer organiza-
14 tion shall be treated as the employer of any work
15 site employee (other than a person described in sub-
16 section (e)) who is performing services covered by a
17 contract meeting the requirements of section
18 7706(e)(2), but only with respect to remuneration
19 remitted by such organization to such individual,
20 and

21 “(2) exemptions, exclusions, definitions, and
22 other rules which are based on type of employer and
23 which would (but for paragraph (1)) apply shall
24 apply with respect to such taxes imposed on such re-
25 munerations.

1 “(d) SPECIAL RULE FOR RELATED PARTY.—This
2 section shall not apply in the case of a customer which
3 bears a relationship to a certified professional employer
4 organization described in section 267(b) or 707(b). For
5 purposes of the preceding sentence, such sections shall be
6 applied by substituting ‘10 percent’ for ‘50 percent’.

7 “(e) SPECIAL RULE FOR CERTAIN INDIVIDUALS.—
8 For purposes of the taxes imposed under this subtitle, an
9 individual with net earnings from self-employment derived
10 from the customer’s trade or business (including a partner
11 in a partnership that is a customer), is not a work site
12 employee with respect to remuneration paid by a certified
13 professional employer organization.

14 “(f) REGULATIONS.—The Secretary shall prescribe
15 such regulations as may be necessary or appropriate to
16 carry out the purposes of this section.”.

17 (b) CERTIFIED PROFESSIONAL EMPLOYER ORGANI-
18 ZATION DEFINED.—Chapter 79, as amended by the pre-
19 ceding provisions of this Act, is amended by adding at the
20 end the following new section:

21 **“SEC. 7706. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-
22 ZATIONS.**

23 “(a) IN GENERAL.—For purposes of this title, the
24 term ‘certified professional employer organization’ means
25 a person who applies to be treated as a certified profes-

1 sional employer organization for purposes of section 3511
2 and who has been certified by the Secretary as meeting
3 the requirements of subsection (b).

4 “(b) CERTIFICATION REQUIREMENTS.—A person
5 meets the requirements of this subsection if such person—

6 “(1) demonstrates that such person (and any
7 owner, officer, and such other persons as may be
8 specified in regulations) meets such requirements as
9 the Secretary shall establish with respect to tax sta-
10 tus, background, experience, business location, and
11 annual financial audits,

12 “(2) agrees that it will satisfy the bond and
13 independent financial review requirements of sub-
14 sections (e) on an ongoing basis,

15 “(3) agrees that it will satisfy such reporting
16 obligations as may be imposed by the Secretary,

17 “(4) computes its taxable income using an ac-
18 crual method of accounting unless the Secretary ap-
19 proves another method,

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

23 “(6) agrees to notify the Secretary in writing,
24 within such time as the of Secretary may prescribe,
25 of any change that materially affects the continuing

1 accuracy of any agreement or information which was
2 previously made or provided.

3 “(c) BOND AND INDEPENDENT FINANCIAL RE-
4 VIEW.—

5 “(1) IN GENERAL.—An organization meets the
6 requirements of this paragraph if such organiza-
7 tion—

8 “(A) meets the bond requirements of para-
9 graph (2), and

10 “(B) meets the independent financial re-
11 view requirements of paragraph (3).

12 “(2) BOND.—

13 “(A) IN GENERAL.—A certified profes-
14 sional employer organization meets the require-
15 ments of this paragraph if the organization has
16 posted a bond for the payment of taxes under
17 subtitle C (in a form acceptable to the Sec-
18 retary) that is in an amount at least equal to
19 the amount specified in subparagraph (B).

20 “(B) AMOUNT OF BOND.—

21 “(i) IN GENERAL.—For the period
22 April 1 of any calendar year through
23 March 31 of the following calendar year,
24 the amount of the bond required is equal
25 to the greater of—

1 “(I) 5 percent of the organiza-
2 tion’s liability under section 3511 for
3 taxes imposed by subtitle C during the
4 preceding calendar year (but not to
5 exceed \$1,000,000), or

6 “(II) \$50,000.

7 “(ii) SPECIAL RULE FOR NEWLY CRE-
8 ATED PROFESSIONAL EMPLOYER ORGANI-
9 ZATIONS.—During the first three full cal-
10 endar years that an organization is in ex-
11 istence, subclause (I) of clause (i) shall not
12 apply. For this purpose—

13 “(I) under rules provided by the
14 Secretary, an organization is treated
15 as in existence as of the date that
16 such organization began providing
17 services to any customer which were
18 comparable to the services being pro-
19 vided with respect to work site em-
20 ployees, regardless of whether such
21 date occurred before or after the orga-
22 nization is certified under subsection
23 (b), and

24 “(II) an organization with liabil-
25 ity under section 3511 for taxes im-

1 posed by subtitle C during the pre-
2 ceding calendar year in excess of
3 \$5,000,000 shall no longer be de-
4 scribed in this clause (ii) as of April
5 1 of the year following such calendar
6 year.

7 “(3) INDEPENDENT FINANCIAL REVIEW RE-
8 QUIREMENTS.—A certified professional employer or-
9 ganization meets the requirements of this paragraph
10 if such organization—

11 “(A) has, as of the most recent audit date,
12 caused to be prepared and provided to the Sec-
13 retary (in such manner as the Secretary may
14 prescribe) an opinion of an independent cer-
15 tified public accountant as to whether the cer-
16 tified professional employer organization’s fi-
17 nancial statements are presented fairly in ac-
18 cordance with generally accepted accounting
19 principles, and

20 “(B) provides to the Secretary an assertion
21 regarding Federal employment tax payments
22 and an examination level attestation on such
23 assertion from an independent certified public
24 accountant not later than the last day of the
25 second month beginning after the end of each

1 calendar quarter. Such assertion shall state
2 that the organization has withheld and made
3 deposits of all taxes imposed by chapters 21,
4 22, and 24 of the Internal Revenue Code in ac-
5 cordance with regulations imposed by the Sec-
6 retary for such calendar quarter and such ex-
7 amination level attestation shall state that such
8 assertion is fairly stated, in all material re-
9 spects.

10 “(4) CONTROLLED GROUP RULES.—For pur-
11 poses of the requirements of paragraphs (2) and (3),
12 all professional employer organizations that are
13 members of a controlled group within the meaning
14 of sections 414(b) and (c) shall be treated as a sin-
15 gle organization.

16 “(5) FAILURE TO FILE ASSERTION AND ATTES-
17 TATION.—If the certified professional employer orga-
18 nization fails to file the assertion and attestation re-
19 quired by paragraph (3) with respect to any cal-
20 endar quarter, then the requirements of paragraph
21 (3) with respect to such failure shall be treated as
22 not satisfied for the period beginning on the due
23 date for such attestation.

1 “(6) AUDIT DATE.—For purposes of paragraph
2 (3)(A), the audit date shall be six months after the
3 completion of the organization’s fiscal year.

4 “(d) SUSPENSION AND REVOCATION AUTHORITY.—
5 The Secretary may suspend or revoke a certification of
6 any person under subsection (b) for purposes of section
7 3511 if the Secretary determines that such person is not
8 satisfying the agreements or requirements of subsections
9 (b) or (c), or fails to satisfy applicable accounting, report-
10 ing, payment, or deposit requirements.

11 “(e) WORK SITE EMPLOYEE.—For purposes of this
12 title—

13 “(1) IN GENERAL.—The term ‘work site em-
14 ployee’ means, with respect to a certified profes-
15 sional employer organization, an individual who—

16 “(A) performs services for a customer pur-
17 suant to a contract which is between such cus-
18 tomer and the certified professional employer
19 organization and which meets the requirements
20 of paragraph (2), and

21 “(B) performs services at a work site
22 meeting the requirements of paragraph (3).

23 “(2) SERVICE CONTRACT REQUIREMENTS.—A
24 contract meets the requirements of this paragraph
25 with respect to an individual performing services for

1 a customer if such contract is in writing and pro-
2 vides that the certified professional employer organi-
3 zation shall—

4 “(A) assume responsibility for payment of
5 wages to the individual, without regard to the
6 receipt or adequacy of payment from the cus-
7 tomer for such services,

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

14 “(C) assume responsibility for any em-
15 ployee benefits which the service contract may
16 require the certified professional employer orga-
17 nization to provide, without regard to the re-
18 ceipt or adequacy of payment from the cus-
19 tomer for such services,

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

24 “(E) maintain employee records relating to
25 the individual, and

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

4 “(3) WORK SITE COVERAGE REQUIREMENT.—
5 The requirements of this paragraph are met with re-
6 spect to an individual if at least 85 percent of the
7 individuals performing services for the customer at
8 the work site where such individual performs serv-
9 ices are subject to 1 or more contracts with the cer-
10 tified professional employer organization which meet
11 the requirements of paragraph (2) (but not taking
12 into account those individuals who are excluded em-
13 ployees within the meaning of section 414(q)(5)).

14 “(f) DETERMINATION OF EMPLOYMENT STATUS.—
15 Except to the extent necessary for purposes of section
16 3511, nothing in this section shall be construed to affect
17 the determination of who is an employee or employer for
18 purposes of this title.

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

22 (c) CONFORMING AMENDMENTS.—

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

1 “(h) TREATMENT OF CERTIFIED PROFESSIONAL EM-
2 PLOYER ORGANIZATIONS.—If a certified professional em-
3 ployer organization (as defined in section 7706), or a cus-
4 tomer of such organization, makes a contribution to the
5 State’s unemployment fund with respect to a work site
6 employee, such organization shall be eligible for the credits
7 available under this section with respect to such contribu-
8 tion.”.

9 (2) Section 3303(a) is amended—

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

14 “(4) if the taxpayer is a certified professional
15 employer organization (as defined in section 7706)
16 that is treated as the employer under section 3511,
17 such certified professional employer organization is
18 permitted to collect and remit, in accordance with
19 paragraphs (1), (2), and (3), contributions during
20 the taxable year to the State unemployment fund
21 with respect to a work site employee.”, and

22 (B) in the last sentence—

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

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

4 (3) Section 6053(c) is amended by adding at
5 the end the following new paragraph:

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

18 (d) CLERICAL AMENDMENTS.—

19 (1) The table of sections for chapter 25 is
20 amended by adding at the end the following new
21 item:

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

22 (2) The table of sections for chapter 79, as
23 amended by the preceding provisions of this Act, is

1 amended by adding at the end the following new
2 item:

“Sec. 7706. Certified professional employer organizations.”.

3 (e) REPORTING REQUIREMENTS AND OBLIGA-
4 TIONS.—The Secretary of the Treasury shall develop such
5 reporting and recordkeeping rules, regulations, and proce-
6 dures as the Secretary determines necessary or appro-
7 priate to ensure compliance with the amendments made
8 by this section with respect to entities applying for certifi-
9 cation as certified professional employer organizations or
10 entities that have been so certified. Such rules shall be
11 designed in a manner which streamlines, to the extent pos-
12 sible, the application of requirements of such amendments,
13 the exchange of information between a certified profes-
14 sional employer organization and its customers, and the
15 reporting and recordkeeping obligations of the certified
16 professional employer organization.

17 (f) USER FEES.—Subsection (b) of section 7528 is
18 amended by adding at the end thereof the following new
19 paragraph:

20 “(4) CERTIFIED PROFESSIONAL EMPLOYER OR-
21 GANIZATIONS.—The fee charged under the program
22 in connection with the certification by the Secretary
23 of a professional employer organization under sec-
24 tion 7706 shall be an annual fee not to exceed
25 \$1,000 per year.”.

1 (g) EFFECTIVE DATES.—

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

7 (2) CERTIFICATION PROGRAM.—The Secretary
8 of the Treasury shall establish the certification pro-
9 gram described in section 7706(b) of the Internal
10 Revenue Code of 1986, as added by this section, not
11 later than 6 months before the effective date deter-
12 mined under paragraph (1).

13 (h) NO INFERENCE.—Nothing contained in this sec-
14 tion or the amendments made by this section shall be con-
15 strued to create any inference with respect to the deter-
16 mination of who is an employee or employer—

17 (1) for Federal tax purposes (other than the
18 purposes set forth in the amendments made by this
19 section), or

20 (2) for purposes of any other provision of law.

1 **Subtitle G—Pensions and**
2 **Retirement**

3 **PART 1—INDIVIDUAL RETIREMENT PLANS**

4 **SEC. 1601. ELIMINATION OF INCOME LIMITS ON CONTRIBU-**
5 **TIONS TO ROTH IRAs.**

6 (a) IN GENERAL.—Subsection (c) of section 408A is
7 amended by striking paragraph (3).

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2014.

11 **SEC. 1602. NO NEW CONTRIBUTIONS TO TRADITIONAL IRAs.**

12 (a) IN GENERAL.—

13 (1) INDIVIDUAL RETIREMENT ACCOUNTS.—
14 Paragraph (1) of section 408(a) is amended by
15 striking “in excess of the amount” and all that fol-
16 lows through the end and inserting the following:
17 “unless it is a contribution under a simplified em-
18 ployee pension described in subsection (k) not in ex-
19 cess of the amount of the limitation in effect for
20 such taxable year under section 415(c)(1)(A), a con-
21 tribution to a simple retirement account described in
22 subsection (p) not in excess of the amount described
23 in section 408(p)(8) for such taxable year, or a con-
24 tribution to a Roth IRA described in section 408A
25 not in excess of the amount in effect for the taxable

1 year with respect to such individual under section
2 408A(c)(1)(A)(i).”.

3 (2) INDIVIDUAL RETIREMENT ANNUITIES.—

4 (A) IN GENERAL.—Subparagraph (B) of
5 section 408(b)(2) is amended to read as follows:

6 “(B) any amount paid as a premium on
7 behalf of any individual for a taxable year
8 would meet the requirements of subsection
9 (a)(1) if it were paid as a contribution to an in-
10 dividual retirement account, and”.

11 (B) ENDOWMENT CONTRACT REQUIRE-
12 MENT.—The last sentence of section 408(b) is
13 amended by striking “the dollar amount in ef-
14 fect under section 219(b)(1)(A)” and inserting
15 “the amounts described in paragraph (2)(B)”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) AMENDMENTS RELATING TO DEDUCT-
18 IBILITY.—

19 (A) Section 219(a) is amended by striking
20 “equal to the qualified retirement contributions
21 of the individual” and inserting “equal to the
22 amounts contributed on behalf of the individual
23 to a plan described in section 501(e)(18)”.

24 (B) Section 219(b) is amended—

1 (i) by striking “MAXIMUM AMOUNT
2 OF DEDUCTION” and all that follows
3 through “Notwithstanding paragraph (1),
4 the amount allowable as a deduction” and
5 inserting “MAXIMUM AMOUNT OF DEDUC-
6 TION.—The amount allowable as a deduc-
7 tion”, and

8 (ii) by striking paragraphs (4) and
9 (5).

10 (C) Section 219 is amended by striking
11 subsections (c), (d), (e), (g), and (h) and by re-
12 designating subsection (f) as subsection (c).

13 (D) Section 219(e), as so redesignated, is
14 amended—

15 (i) by striking “OTHER DEFINITIONS
16 AND SPECIAL RULES” and inserting “SPE-
17 CIAL RULES”,

18 (ii) by striking paragraphs (1), (3),
19 (4), (5), (6), (7), and (8), and

20 (iii) by inserting before paragraph (2)
21 the following new paragraph:

22 “(1) BENEFICIARY MUST BE UNDER AGE
23 70¹/₂.—No deduction shall be allowed under this sec-
24 tion with respect to any amount contributed on be-
25 half of an individual to a plan described in section

1 501(c)(18) if such individual has attained age 70½
2 before the close of such individual's taxable year for
3 which the contribution was made.”.

4 (E) Section 4973(b)(2)(C) is amended by
5 striking “(determined without regard to section
6 219(f)(6))”.

7 (2) AMENDMENTS RELATING TO ROTH IRA CON-
8 TRIBUTION LIMITS.—

9 (A) Section 408A(e), as amended by this
10 Act, is amended—

11 (i) by striking paragraphs (1) and (2)
12 and inserting the following new para-
13 graphs:

14 “(1) MAXIMUM CONTRIBUTION.—

15 “(A) IN GENERAL.—The aggregate
16 amount of contributions for any taxable year to
17 all Roth IRAs maintained for the benefit of an
18 individual shall not exceed the lesser of—

19 “(i) \$5,500, or

20 “(ii) an amount equal to the com-
21 pensation includible in the individual's
22 gross income for such taxable year.

23 “(B) CATCH-UP CONTRIBUTIONS FOR INDI-
24 VIDUALS 50 OR OLDER.—In the case of an indi-
25 vidual who has attained the age of 50 before

1 the close of the taxable year, the amount in ef-
2 fect under subparagraph (A)(i) for such taxable
3 year shall be increased by \$1,000.

4 “(2) SPECIAL RULE FOR CERTAIN MARRIED IN-
5 DIVIDUALS.—In the case of an individual to whom
6 this paragraph applies for the taxable year, the limi-
7 tation of paragraph (1) shall be equal to the lesser
8 of—

9 “(A) the dollar amount in effect under
10 paragraph (1)(A)(i) for the taxable year, or

11 “(B) the sum of—

12 “(i) the compensation includible in
13 such individual’s gross income for the tax-
14 able year, plus

15 “(ii) the compensation includible in
16 the gross income of such individual’s
17 spouse for the taxable year reduced by—

18 “(I) the amount allowed as a de-
19 duction under section 219(a) to such
20 spouse for such taxable year,

21 “(II) the amount of any contribu-
22 tion on behalf of such spouse to a
23 Roth IRA for such taxable year.

1 “(3) INDIVIDUALS TO WHOM PARAGRAPH (2)
2 APPLIES.—Paragraph (2) shall apply to any indi-
3 vidual if—
4 “(A) such individual files a joint return for
5 the taxable year, and
6 “(B) the amount of compensation (if any)
7 includible in such individual’s gross income for
8 the taxable year is less than the compensation
9 includible in the gross income of such individ-
10 ual’s spouse for the taxable year.”.
11 (ii) by striking “paragraph (2)” in
12 paragraph (6) and inserting “paragraph
13 (1)”,
14 (iii) by striking “the rule of section
15 219(f)(3) shall apply” in paragraph (7)
16 and inserting the following: “a taxpayer
17 shall be deemed to have made a contribu-
18 tion to a Roth IRA on the last day of the
19 preceding taxable year if the contribution
20 is made on account of such taxable year
21 and is made not later than the time pre-
22 scribed by law for filing the return for
23 such taxable year (not including extensions
24 thereof)”, and

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

3 “(8) COMPENSATION.—For purposes of this
4 section, the term ‘compensation’ includes earned in-
5 come (as defined in section 401(c)(2)). The term
6 ‘compensation’ does not include any amount received
7 as a pension or annuity and does not include any
8 amount received as deferred compensation. For pur-
9 poses of this paragraph, section 401(c)(2) shall be
10 applied as if the term trade or business for purposes
11 of section 1402 included service described in sub-
12 section (c)(6) thereof. The term compensation in-
13 cludes any differential wage payment (as defined in
14 section 3401(h)(2)).

15 “(9) MARRIED INDIVIDUALS.—The limitation
16 under this subsection shall be computed separately
17 for each individual, and this section shall be applied
18 without regard to any community property laws.

19 “(10) SPECIAL RULE FOR COMPENSATION
20 EARNED BY MEMBERS OF ARMED FORCES FOR
21 SERVICES IN COMBAT ZONE.—For purposes of para-
22 graphs (1)(A)(ii) and (2), the amount of compensa-
23 tion includible in an individual’s gross income shall
24 be determined without regard to section 112.”.

25 (B) Section 408A(d)(3)(A) is amended—

- 1 (i) by inserting “and” at the end of
2 clause (i),
3 (ii) by striking “, and” at the end of
4 clause (ii) and inserting a period,
5 (iii) by striking clause (iii), and
6 (iv) by striking the last sentence.
- 7 (3) AMENDMENTS RELATING TO TRADITIONAL
8 IRAS.—
9 (A) Section 408(d)(4) is amended—
10 (i) by striking subparagraph (B) and
11 inserting the following:
12 “(B) in the case of simplified employee
13 pension, such contribution is not excluded from
14 gross income under section 402(h),”
15 (ii) by adding at the end the fol-
16 lowing: “This paragraph shall not apply to
17 any contribution to a simple retirement ac-
18 count.”
19 (B) Section 408(d)(5)(A) is amended—
20 (i) by striking “in effect under section
21 219(b)(1)(A)” and inserting “in effect with
22 respect to the taxpayer for the taxable year
23 under section 408A(c)(1)(A)(i),”
24 (ii) by striking “the amount allowable
25 as a deduction” and all that follows

1 through “such excess contribution.” and
2 inserting “the amount that may be contrib-
3 uted under section 408A(c)(1) for the tax-
4 able year for which the contribution was
5 made if such distribution is received after
6 the date described in paragraph (4).”,

7 (iii) by adding at the end of subpara-
8 graph (A) the following: “This paragraph
9 shall not apply to any contribution to a
10 simple retirement account.”, and

11 (iv) by striking the last sentence.

12 (C) Section 408 is amended by striking
13 subsection (o).

14 (4) AMENDMENTS RELATING TO SIMPLE RE-
15 TIREMENT ACCOUNTS.—

16 (A) Section 408(p)(2)(D)(ii) is amended by
17 striking “means a plan, contract” and all that
18 follows through the period at the end and in-
19 serting the following: “means—

20 “(I) a plan described in section
21 401(a) which includes a trust exempt
22 from tax under section 501(a),

23 “(II) an annuity plan described
24 in section 403(a),

- 1 “(III) an eligible deferred com-
- 2 pensation plan (as defined in section
- 3 457(b)) of an eligible employer de-
- 4 scribed in section 457(e)(1)(A)),
- 5 “(IV) an annuity contract de-
- 6 scribed in section 403(b),
- 7 “(V) a simplified employee pen-
- 8 sion (within the meaning of section
- 9 408(k)),
- 10 “(VI) any simple retirement ac-
- 11 count (within the meaning of section
- 12 408(p)), or
- 13 “(VII) a trust described in sec-
- 14 tion 501(c)(18).”.

15 (B) Section 408(p)(8) is amended to read
16 as follows:

17 “(8) COORDINATION WITH MAXIMUM LIMITA-
18 TION UNDER SUBSECTION (a).—In the case of a
19 simple retirement account, for purposes of sub-
20 sections (a)(1) and (b)(2), contributions may not ex-
21 ceed the sum of—

22 “(A) the dollar amount in effect under
23 paragraph (2)(A)(ii), and

1 “(B) the employer contribution required
2 under subparagraph (A)(iii) or (B)(i) of para-
3 graph (2), whichever is applicable.”.

4 (5) AMENDMENTS RELATING TO SEPS.—Section
5 408 is amended by striking subsection (j).

6 (6) AMENDMENTS RELATING TO EXCISE TAX
7 ON EXCESS CONTRIBUTIONS.—

8 (A) TRADITIONAL IRAS.—Subsection (b) of
9 section 4973 is amended—

10 (i) by striking paragraph (1) and in-
11 serting the following:

12 “(1) the amounts contributed for the taxable
13 year to the accounts or for the annuities or bonds
14 (other than any contributions to a Roth IRA) which
15 are not permitted contributions under subsection
16 (a)(1) or (b)(2) of section 408, and”.

17 (ii) in paragraph (2)(C), by striking
18 “the maximum amount allowable” and all
19 that follows through “without regard to
20 section 219(f)(6)” and inserting “the per-
21 mitted contributions under subsection
22 (a)(1) or (b)(2) of section 408 for the tax-
23 able year over the amount contributed”,
24 and

1 (iii) by striking the last sentence and
2 inserting the following: “Paragraph (2)
3 shall be determined separately with respect
4 to any simplified employee pension (within
5 the meaning of section 408(k)) and any
6 simple retirement account (within the
7 meaning of section 408(p)).”.

8 (B) ROTH IRAS.—Section 4973(f) is
9 amended by striking “sections 408A(c)(2) and
10 (c)(3)” each place it appears and inserting
11 “section 408A(c)(1)”.

12 (7) AMENDMENTS RELATING TO SAVER’S CRED-
13 IT.—Section 25B(d)(1)(A) is amended to read as
14 follows:

15 “(A) the amounts—

16 “(i) paid in cash for the taxable year
17 by or on behalf of an individual to all Roth
18 IRAs maintained for such individual’s ben-
19 efit, and

20 “(ii) contributed on behalf of the indi-
21 vidual to a plan described in section
22 501(c)(18),”.

23 (8) OTHER CONFORMING AMENDMENTS.—

1 (A) Section 86(f)(3) is amended by strik-
2 ing “219(f)(1)” and inserting “section
3 408A(c)(8)”.

4 (B) Section 132(m)(3) is amended by
5 striking “section 219(g)(5)” and inserting “sec-
6 tion 408(p)(2)(D)(ii)”.

7 (C)(i) Section 223(d) is amended—

8 (I) by redesignating paragraph (4) as
9 paragraph (7),

10 (II) by inserting after paragraph (3)
11 the following new paragraphs:

12 “(4) RECONTRIBUTED AMOUNTS.—No deduc-
13 tion shall be allowed under this section with respect
14 to a rollover contribution described in subsection
15 (f)(5).

16 “(5) TIME WHEN CONTRIBUTIONS DEEMED
17 MADE.—For purposes of this section, a taxpayer
18 shall be deemed to have made a contribution to a
19 health savings account on the last day of the pre-
20 ceding taxable year if the contribution is made on
21 account of such taxable year and is made not later
22 than the time prescribed by law for filing the return
23 for such taxable year (not including extensions
24 thereof).

1 “(6) EMPLOYER PAYMENTS.—Except as pro-
2 vided in section 106(d), for purposes of this title,
3 any amount paid by an employer to a health savings
4 account shall be treated as payment of compensation
5 to the employee (other than a self-employed indi-
6 vidual who is an employee within the meaning of
7 section 401(c)(1)) includible in his gross income in
8 the taxable year for which the amount was contrib-
9 uted, whether or not a deduction for such payment
10 is allowable under this section to the employee.”.

11 (ii) Section 223(d)(7), as so redesignated,
12 is amended by striking subparagraphs (A), (B),
13 and (C), and redesignating subparagraphs (D)
14 and (E) as subparagraphs (A) and (B), respec-
15 tively.

16 (D) Section 409A(d)(2)(A) is amended by
17 striking “subparagraph (A) or (B) of section
18 219(g)(5) (without regard to subparagraph
19 (A)(iii))” and inserting “section
20 408(p)(2)(D)(ii) (without regard to subclause
21 (III) thereof)”.

22 (E) Section 501(c)(18)(D)(i) is amended
23 by striking “section 219(b)(3)” and inserting
24 “section 219(a)”.

1 (F) Section 877A(d)(4)(A) is amended by
2 striking “section 219(g)(5)” and inserting
3 “408(p)(2)(D)(ii)”.

4 (G) Section 6652 is amended by striking
5 subsection (g).

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2014.

9 **SEC. 1603. INFLATION ADJUSTMENT FOR ROTH IRA CON-**
10 **TRIBUTIONS.**

11 (a) IN GENERAL.—Subsection (c) of section 408A,
12 as amended by this Act, is amended by adding at the end
13 the following new paragraph:

14 “(11) COST-OF-LIVING ADJUSTMENT.—In the
15 case of any taxable year beginning after 2023, the
16 dollar amount in paragraph (1)(A)(i) shall be in-
17 creased by an amount equal to—

18 “(A) such dollar amount, multiplied by

19 “(B) the cost-of-living adjustment deter-
20 mined under section 1(c)(2)(A) for the calendar
21 year in which the taxable year begins, deter-
22 mined by substituting ‘calendar year 2022’ for
23 ‘calendar year 2012’ in clause (ii) thereof.

1 If any increase determined under the preceding sen-
2 tence is not a multiple of \$500, such increase shall
3 be rounded to the next lowest multiple of \$500.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to taxable years beginning after
6 December 31, 2014.

7 **SEC. 1604. REPEAL OF SPECIAL RULE PERMITTING RE-**
8 **CHARACTERIZATION OF ROTH IRA CON-**
9 **TRIBUTIONS AS TRADITIONAL IRA CON-**
10 **TRIBUTIONS.**

11 (a) IN GENERAL.—Section 408A(d) is amended by
12 striking paragraph (6) and by redesignating paragraph
13 (7) as paragraph (6).

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2014.

17 **SEC. 1605. REPEAL OF EXCEPTION TO 10-PERCENT PEN-**
18 **ALTY FOR FIRST HOME PURCHASES.**

19 (a) IN GENERAL.—Section 72(t)(2) is amended by
20 striking subparagraph (F).

21 (b) ROTH IRAs.—Subparagraph (A) of section
22 408A(d)(2) is amended by inserting “or” at the end of
23 clause (ii), and by striking “, or” at the end of clause
24 (iii) and inserting a period, and by striking clause (iv).

25 (c) CONFORMING AMENDMENT.—

1 (1) Section 72(t) is amended by striking para-
2 graph (8).

3 (2) Section 408A(d), as amended by this Act,
4 is amended by striking paragraph (5) and by redesi-
5 gnating paragraph (6) as paragraph (5).

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to distributions after December 31,
8 2014.

9 **PART 2—EMPLOYER-PROVIDED PLANS**

10 **SEC. 1611. TERMINATION FOR NEW SEPs.**

11 (a) IN GENERAL.—

12 (1) Section 408(k) is amended by redesignating
13 paragraph (9) as paragraph (10) and by inserting
14 after paragraph (8) the following new paragraph:

15 “(9) TERMINATION.—This subsection shall not
16 apply to years beginning after December 31, 2014.
17 The preceding sentence shall not apply to any sim-
18 plified employee pension of an employer if such sim-
19 plified employee pension, and the terms thereof,
20 meet the requirements of this subsection on and
21 after such date.”.

22 (2) Section 402(h) is amended by adding at the
23 end the following new paragraph:

24 “(4) TERMINATION.—This subsection shall not
25 apply to any simplified employee pension the ar-

1 arrangement for which is established after December
2 31, 2014.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2014.

6 **SEC. 1612. TERMINATION FOR NEW SIMPLE 401(k)s.**

7 (a) AMENDMENTS RELATING TO SIMPLE
8 401(k)s.—Section 401(k)(11) is amended by adding at the
9 end the following new subparagraph:

10 “(E) TERMINATION.—This paragraph
11 shall apply to a cash or deferred arrangement
12 for any plan year beginning after December 31,
13 2014, only if such arrangement meets the re-
14 quirements of this paragraph for the last plan
15 year beginning before January 1, 2015, and for
16 each plan year thereafter.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to plan years beginning after De-
19 cember 31, 2014.

20 **SEC. 1613. RULES RELATED TO DESIGNATED ROTH CON-**
21 **TRIBUTIONS.**

22 (a) APPLICABLE RETIREMENT PLANS WHICH PER-
23 MIT ELECTIVE DEFERRALS REQUIRED TO ACCEPT DES-
24 IGNATED ROTH CONTRIBUTIONS.—

- 1 (1) IN GENERAL.—Paragraph (30) of section
2 401(a) is amended—
- 3 (A) by striking “DEFERRALS.—” and all
4 that follows through “In the case of a trust”
5 and inserting the following: “DEFERRALS.—
6 “(A) IN GENERAL.—In the case of a
7 trust”,
8 (B) by striking “unless the plan provides
9 that” and inserting the following: “unless the
10 plan—
11 “(i) provides that”,
12 (C) by striking the period at the end and
13 inserting “, and”, and
14 (D) by adding at the end the following:
15 “(ii) except as provided in subpara-
16 graph (B), includes a qualified Roth con-
17 tribution program (as defined in section
18 402A(b)).
19 “(B) EXCEPTION FOR CERTAIN SMALL
20 PLANS.—Subparagraph (A)(ii) shall not apply
21 to any plan of an eligible employer (as defined
22 in section 408(p)(2)(C)).”.
- 23 (2) CONFORMING AMENDMENTS.—

1 (A) Section 402A(b)(1) is amended by
2 striking all that follows “designated Roth con-
3 tributions” and inserting a period.

4 (B) The heading of section 402A (and the
5 item relating to such section in the table of sec-
6 tions for part I of subchapter D of chapter 1)
7 is amended by striking “**OPTIONAL TREAT-**
8 **MENT OF ELECTIVE DEFERRALS AS ROTH**
9 **CONTRIBUTIONS**” and inserting “**DES-**
10 **IGNATED ROTH CONTRIBUTIONS**”.

11 (b) RESTRICTION ON PORTION OF ELECTIVE DEFER-
12 RAL LIMITATION WHICH MAY APPLY TO TRADITIONAL
13 ELECTIVE DEFERRALS.—

14 (1) IN GENERAL.—Subparagraph (A) of section
15 402(g)(1) is amended by striking “the applicable
16 dollar amount” and inserting “50 percent (100 per-
17 cent in the case of elective deferrals with respect to
18 any plan of an eligible employer (as defined in sec-
19 tion 408(p)(2)(C)) of the applicable dollar amount”.

20 (2) GOVERNMENT 457(b) PLANS.—

21 (A) IN GENERAL.—Subsection (b) of sec-
22 tion 457 is amended by striking “and” at the
23 end of paragraph (5), by redesignating para-
24 graph (6) as paragraph (7), and by inserting

1 after paragraph (5) the following new para-
2 graph:

3 “(6) which, in the case of a plan maintained by
4 an employer described in subsection (e)(1)(A), meets
5 requirements similar to the requirements of section
6 401(a)(30), and”.

7 (B) CONFORMING AMENDMENT.—Section
8 402(g)(1)(A) is amended by inserting “and sec-
9 tion 457(a)(1)” after “(h)(1)(B)”.

10 (C) CROSS-REFERENCE.—For treatment of
11 amounts deferred under an eligible compensa-
12 tion plan of a governmental employer as elective
13 deferrals, see section 1618(b)(1) of this Act.

14 (3) ROTH ELECTIVE DEFERRALS PERMITTED
15 TO EXTENT OF FULL LIMITATION AMOUNT.—

16 (A) IN GENERAL.—Section 402A(c)(2)(A)
17 is amended to read as follows:

18 “(A) the applicable dollar amount in effect
19 under section 402(g)(1)(B) with respect to the
20 employee for the taxable year, over”.

21 (B) CONFORMING AMENDMENTS.—

22 (i) Section 401(a)(30) is amended—

23 (I) by inserting “(including con-
24 tributions treated as elective deferrals

1 under section 402A(a)(1))” after
2 “section 402(g)(3)”, and

3 (II) by striking “section
4 402(g)(1)(A)” and inserting “section
5 402(g)(1)(B), and that the amount of
6 elective deferrals not included in gross
7 income may not exceed the amount of
8 the limitation in effect under section
9 402(g)(1)(A),”.

10 (ii) Section 402(g)(1)(C) is amend-
11 ed—

12 (I) by striking “In addition to
13 subparagraph (A)” and inserting
14 “For purposes of subparagraph (A)”.

15 (II) by striking “gross income
16 shall not include” and all that follows
17 through “does not exceed” and insert-
18 ing “the applicable dollar amount in
19 effect for the taxable year under sub-
20 paragraph (B) shall be increased by”.

21 (iii)(I) So much of section
22 402(g)(2)(A) as precedes clause (i) is
23 amended to read as follows:

24 “(A) IN GENERAL.—If an individual’s ag-
25 gregate elective deferrals for a taxable year ex-

1 ceed the applicable dollar amount under para-
2 graph (1) (hereinafter in this paragraph re-
3 ferred to as ‘excess total deferrals’) or if an in-
4 dividual’s aggregate elective deferrals (dis-
5 regarding designated Roth contributions and
6 simple Roth contributions) exceed the amount
7 excludable under paragraph (1)(A) (hereinafter
8 in this paragraph referred to as ‘excess non-
9 Roth deferrals’)—”.

10 (II) Section 402(g)(2)(A)(i) is amend-
11 ed by striking “such excess deferrals” and
12 inserting “such excess total deferrals or ex-
13 cess non-Roth deferrals”.

14 (III) Section 402(g)(2)(C)(ii) is
15 amended by striking “the excess deferral”
16 and inserting “the excess total deferral or
17 excess non-Roth deferral”.

18 (IV) Section 402A(d)(2)(C) is amend-
19 ed by striking “excess deferral” and insert-
20 ing “excess total deferral”.

21 (V) Section 402A(d)(3) is amended by
22 striking “excess deferral” each place it ap-
23 pears and inserting “excess total deferral”.

24 (VI) Section 402(g)(1)(A) is amended
25 by striking the second sentence.

1 (iv) Section 402A(c)(1)(A) is amended
2 by striking “without regard to this sec-
3 tion” and inserting “(determined without
4 regard to this section and section
5 402(g))”.

6 (4) REPORTING BY EMPLOYERS.—Section
7 6051(a)(8) is amended by inserting after “(as de-
8 fined in section 402A)” the following: “, and the
9 type of plan under which amounts are deferred or
10 contributed”.

11 (c) SIMPLE ROTH RETIREMENT ACCOUNTS PER-
12 MITTED.—

13 (1) IN GENERAL.—Subsection (p) of section
14 408 is amended by adding at the end the following
15 new paragraph:

16 “(11) ROTH CONTRIBUTIONS.—For purposes of
17 this section—

18 “(A) IN GENERAL.—If a qualified salary
19 reduction arrangement with respect to a simple
20 retirement account includes a simple Roth con-
21 tribution program, any simple Roth contribu-
22 tion made by an employer pursuant to such
23 program shall be treated as an elective em-
24 ployer contribution, except that such contribu-

1 tion shall be paid to a Roth IRA and shall not
2 be excludable from gross income.

3 “(B) SIMPLE ROTH CONTRIBUTION PRO-
4 GRAM.—The term ‘simple Roth contribution
5 program’ means a program under which an em-
6 ployee may elect to make simple Roth contribu-
7 tions.

8 “(C) SIMPLE ROTH CONTRIBUTION.—The
9 term ‘simple Roth contribution’ means any elec-
10 tive employer contribution which—

11 “(i) is excludable from gross income
12 of an employee without regard to this
13 paragraph, and

14 “(ii) the employee designates (at such
15 time and in such manner as the Secretary
16 may prescribe) as not being so excludable.

17 “(D) LIMITATION.—In the case of an eligi-
18 ble employer which elects the application of this
19 subparagraph with respect to the simple retire-
20 ment accounts established pursuant to a quali-
21 fied salary reduction arrangement of such em-
22 ployer, notwithstanding paragraph (2)(E), the
23 applicable dollar amount for purposes of para-
24 graph (2)(A)(ii), shall be equal to—

1 “(i) in the case of any such account
2 which is not designated as a Roth IRA, 50
3 percent of the applicable dollar amount in
4 effect under section 402(g)(1)(B) for the
5 taxable year, and

6 “(ii) in the case of any such account
7 which is designated as a Roth IRA, the ex-
8 cess (if any) of—

9 “(I) the applicable dollar amount
10 in effect under section 402(g)(1)(B)
11 for the taxable year, over

12 “(II) the aggregate amount of
13 elective employer contributions to any
14 account described in clause (i).

15 In the case of a simple retirement account with
16 respect to which the application of this subpara-
17 graph is elected, the employer shall not be
18 treated as an eligible employer for purposes of
19 section 402(g)(1)(A), and the applicable dollar
20 amount with respect to any eligible participant
21 (as defined in section 414(v)) shall, notwith-
22 standing section 414(v)(2)(B)(ii), be deter-
23 mined by reference to section 402(g)(1)(C).”.

24 (2) COORDINATION WITH MAXIMUM ROTH LIM-
25 TATION.—Subsection (e) of section 408A, as amend-

1 ed by this Act, is amended by adding at the end the
2 following new paragraph:

3 “(12) INCREASE IN MAXIMUM LIMITATION FOR
4 SIMPLE ROTH.—In the case of any simple retirement
5 account, subparagraphs (A)(i) and (B) of paragraph
6 (1) shall be applied by disregarding any contribu-
7 tions made to a simple retirement account and any
8 qualified rollover contributions.”.

9 (3) CONFORMING AMENDMENTS.—

10 (A) Section 408A(f)(1) is amended by
11 striking “or a simple retirement account”.

12 (B) Section 6051(a)(8), as amended by
13 this Act, is amended by inserting after “(as de-
14 fined in section 402A)” the following: “and
15 simple Roth contributions (as defined in section
16 408(p)(11)(C))”.

17 (d) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), the amendments made by this section
20 shall apply to plan years and taxable years begin-
21 ning after December 31, 2014.

22 (2) SUBSECTION (c).—The amendments made
23 by subsection (c) shall apply to calendar years begin-
24 ning after December 31, 2014.

1 **SEC. 1614. MODIFICATIONS OF REQUIRED DISTRIBUTION**

2 **RULES FOR PENSION PLANS.**

3 (a) IN GENERAL.—Section 401(a)(9)(B) of the Inter-
4 nal Revenue Code of 1986 is amended to read as follows:

5 “(B) REQUIRED DISTRIBUTIONS WHERE
6 EMPLOYEE DIES BEFORE ENTIRE INTEREST IS
7 DISTRIBUTED.—

8 “(i) 5-YEAR GENERAL RULE.—A trust
9 shall not constitute a qualified trust under
10 this section unless the plan provides that,
11 if an employee dies before the distribution
12 of the employee’s interest (whether or not
13 such distribution has begun in accordance
14 with subparagraph (A)), the entire interest
15 of the employee will be distributed within
16 5 years after the death of such employee.

17 “(ii) EXCEPTION FOR ELIGIBLE DES-
18 IGNATED BENEFICIARIES.—If—

19 “(I) any portion of the employ-
20 ee’s interest is payable to (or for the
21 benefit of) an eligible designated bene-
22 ficiary,

23 “(II) such portion will be distrib-
24 uted (in accordance with regulations)
25 over the life of such eligible des-
26 ignated beneficiary (or over a period

1 not extending beyond the life expect-
2 ancy of such beneficiary), and
3 “(III) such distributions begin
4 not later than 1 year after the date of
5 the employee’s death or such later
6 date as the Secretary may by regula-
7 tions prescribe,
8 then, for purposes of clause (i) and except
9 as provided in clause (iv) or subparagraph
10 (E)(iii), the portion referred to in sub-
11 clause (I) shall be treated as distributed on
12 the date on which such distributions begin.
13 “(iii) SPECIAL RULE FOR SURVIVING
14 SPOUSE OF EMPLOYEE.—If the eligible
15 designated beneficiary referred to in clause
16 (ii)(I) is the surviving spouse of the em-
17 ployee—
18 “(I) the date on which the dis-
19 tributions are required to begin under
20 clause (ii)(III) shall not be earlier
21 than the date on which the employee
22 would have attained age 70 ½, and
23 “(II) if the surviving spouse dies
24 before the distributions to such spouse
25 begin, this subparagraph shall be ap-

1 plied as if the surviving spouse were
2 the employee.

3 “(iv) RULES UPON DEATH OF ELIGI-
4 BLE DESIGNATED BENEFICIARY.—If an el-
5 igible designated beneficiary dies before the
6 portion of an employee’s interest described
7 in clause (ii) is entirely distributed, clause
8 (ii) shall not apply to any beneficiary of
9 such eligible designated beneficiary and the
10 remainder of such portion shall be distrib-
11 uted within 5 years after the death of such
12 beneficiary.”.

13 (b) DEFINITION OF ELIGIBLE DESIGNATED BENE-
14 FIARY.—Section 401(a)(9)(E) of such Code is amended
15 to read as follows:

16 “(E) DEFINITIONS AND RULES RELATING
17 TO DESIGNATED BENEFICIARY.—For purposes
18 of this paragraph—

19 “(i) DESIGNATED BENEFICIARY.—The
20 term ‘designated beneficiary’ means any
21 individual designated as a beneficiary by
22 the employee.

23 “(ii) ELIGIBLE DESIGNATED BENE-
24 FIARY.—The term ‘eligible designated
25 beneficiary’ means, with respect to any em-

1 ployee, any designated beneficiary who, as
2 of the date of death of the employee, is—
3 “(I) the surviving spouse of the
4 employee,
5 “(II) subject to clause (iii), a
6 child of the employee who has not at-
7 tained age 22,
8 “(III) disabled (within the mean-
9 ing of section 72(m)(7)),
10 “(IV) a chronically ill individual
11 (within the meaning of section
12 7702B(c)(2), except that the require-
13 ments of subparagraph (A)(i) thereof
14 shall only be treated as met if there is
15 a certification that, as of such date,
16 the period of inability described in
17 such subparagraph with respect to the
18 individual is an indefinite one that is
19 reasonably expected to be lengthy in
20 nature), or
21 “(V) an individual not described
22 in any of the preceding subparagraphs
23 who is not more than 10 years young-
24 er than the employee.

1 “(iii) SPECIAL RULE FOR CHIL-
2 DREN.—Subject to subparagraph (F), an
3 individual described in clause (ii)(II) shall
4 cease to be an eligible designated bene-
5 ficiary as of the date the individual attains
6 age 22 and the requirement of subpara-
7 graph (B)(i) shall not be treated as met
8 with respect to any remaining portion of
9 an employee’s interest payable to the indi-
10 vidual unless such portion is distributed
11 within 5 years after such date.”.

12 (c) REQUIRED BEGINNING DATE.—Section
13 401(a)(9)(C) of such Code is amended by adding at the
14 end the following new clause:

15 “(v) EMPLOYEES BECOMING 5-PER-
16 CENT OWNERS AFTER AGE 70½.—If an
17 employee becomes a 5-percent owner (as
18 defined in section 416) with respect to a
19 plan year ending in a calendar year after
20 the calendar year in which the employee
21 attains age 70½, then clause (i)(II) shall
22 be applied by substituting the calendar
23 year in which the employee became such
24 an owner for the calendar year in which
25 the employee retires.”.

1 (d) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as provided in this
3 subsection, the amendments made by this section
4 shall apply to distributions with respect to employees
5 who die after December 31, 2014.

6 (2) REQUIRED BEGINNING DATE.—The amend-
7 ment made by subsection (c) shall apply to employ-
8 ees becoming a 5-percent owner with respect to plan
9 years ending in calendar years beginning before, on,
10 or after the date of the enactment of this Act, except
11 that—

12 (A) if, without regard to such amendment,
13 an employee's required beginning date occurs
14 before April 1, 2015, such amendment shall not
15 result in an earlier required beginning date for
16 such employee, and

17 (B) if, solely by reason of such amend-
18 ment, an employee's required beginning date
19 would occur before April 1, 2015, such employ-
20 ee's required beginning date shall occur on
21 April 1, 2015.

22 (3) EXCEPTION FOR CERTAIN BENE-
23 FICIARIES.—If a designated beneficiary of an em-
24 ployee who dies before January 1, 2015, dies after
25 December 31, 2014—

1 (A) the amendments made by this section
2 shall apply to any beneficiary of such des-
3 ignated beneficiary, and

4 (B) the designated beneficiary shall be
5 treated as an eligible designated beneficiary for
6 purposes of applying section 401(a)(9)(B)(iv) of
7 such Code (as in effect after the amendments
8 made by this section).

9 (4) EXCEPTION FOR CERTAIN EXISTING ANNU-
10 ITY CONTRACTS.—

11 (A) IN GENERAL.—The amendments made
12 by this section shall not apply to a qualified an-
13 nuity which is a binding annuity contract in ef-
14 fect on the date of the enactment of this Act
15 and at all times thereafter.

16 (B) QUALIFIED ANNUITY CONTRACT.—For
17 purposes of this paragraph, the term “qualified
18 annuity” means, with respect to an employee,
19 an annuity—

20 (i) which is a commercial annuity (as
21 defined in section 3405(e)(6) of such
22 Code) or payable by a defined benefit plan,

23 (ii) under which the annuity payments
24 are substantially equal periodic payments
25 (not less frequently than annually) over the

1 lives of such employee and a designated
2 beneficiary (or over a period not extending
3 beyond the life expectancy of such em-
4 ployee or the life expectancy of such em-
5 ployee and a designated beneficiary) in ac-
6 cordance with the regulations described in
7 section 401(a)(9)(A)(ii) of such Code (as
8 in effect before such amendments) and
9 which meets the other requirements of this
10 section 401(a)(9) of such Code (as so in
11 effect) with respect to such payments, and

12 (iii) with respect to which—

13 (I) annuity payments to the em-
14 ployee have begun before January 1,
15 2015, and the employee has made an
16 irrevocable election before such date
17 as to the method and amount of the
18 annuity payments to the employee or
19 any designated beneficiaries, or

20 (II) if subclause (I) does not
21 apply, the employee has made an ir-
22 revocable election before the date of
23 the enactment of this Act as to the
24 method and amount of the annuity

1 payments to the employee or any des-
2 ignated beneficiaries.

3 **SEC. 1615. REDUCTION IN MINIMUM AGE FOR ALLOWABLE**
4 **IN-SERVICE DISTRIBUTIONS.**

5 (a) IN GENERAL.—Section 401(a)(36) is amended by
6 striking “age 62” and inserting “age 59 ½”.

7 (b) APPLICATION TO GOVERNMENTAL SECTION
8 457(b) PLANS.—Clause (i) of section 457(d)(1)(A) is
9 amended by inserting “(in the case of a plan maintained
10 by an employer described in subsection (e)(1)(A), age 59
11 ½)” before the comma at the end.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to distributions made after Decem-
14 ber 31, 2014.

15 **SEC. 1616. MODIFICATION OF RULES GOVERNING HARD-**
16 **SHIP DISTRIBUTIONS.**

17 (a) IN GENERAL.—Not later than 1 year after the
18 date of the enactment of this Act, the Secretary of the
19 Treasury shall modify Treasury Regulation section
20 1.401(k)-1(d)(3)(iv)(E) to—

21 (1) delete the 6-month prohibition on contribu-
22 tions imposed by paragraph (2) thereof, and

23 (2) to make any other modifications necessary
24 to carry out the purposes of section

1 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of
2 1986.

3 (b) EFFECTIVE DATE.—The revised regulations
4 under this section shall apply to plan years beginning after
5 December 31, 2014.

6 **SEC. 1617. EXTENDED ROLLOVER PERIOD FOR THE ROLL-
7 OVER OF PLAN LOAN OFFSET AMOUNTS IN
8 CERTAIN CASES.**

9 (a) IN GENERAL.—Paragraph (3) of section 402(c)
10 is amended by adding at the end the following new sub-
11 paragraph:

12 “(C) ROLLOVER OF CERTAIN PLAN LOAN
13 OFFSET AMOUNTS.—

14 “(i) IN GENERAL.—In the case of a
15 qualified plan loan offset amount, para-
16 graph (1) shall not apply to any transfer
17 of such amount made after the due date
18 (including extensions) for filing the return
19 of tax for the taxable year in which such
20 amount is treated as distributed from a
21 qualified employer plan.

22 “(ii) QUALIFIED PLAN LOAN OFFSET
23 AMOUNT.—For purposes of this subpara-
24 graph, the term ‘qualified plan loan offset
25 amount’ means a plan loan offset amount

1 which is treated as distributed from a
2 qualified employer plan to a participant or
3 beneficiary solely by reason of—

4 “(I) the termination of the quali-
5 fied employer plan, or

6 “(II) the failure to meet the re-
7 payment terms of the loan from such
8 plan because of the separation from
9 service of the participant (whether
10 due to layoff, cessation of business,
11 termination of employment, or other-
12 wise).

13 “(iii) PLAN LOAN OFFSET AMOUNT.—
14 For purposes of clause (ii), the term ‘plan
15 loan offset amount’ means the amount by
16 which the participant’s accrued benefit
17 under the plan is reduced in order to repay
18 a loan from the plan.

19 “(iv) LIMITATION.—This subpara-
20 graph shall not apply to any plan loan off-
21 set amount unless such plan loan offset
22 amount relates to a loan to which section
23 72(p)(1) does not apply by reason of sec-
24 tion 72(p)(2).

1 “(v) QUALIFIED EMPLOYER PLAN.—
2 For purposes of this subsection, the term
3 ‘qualified employer plan’ has the meaning
4 given such term by section 72(p)(4).”.

5 (b) CONFORMING AMENDMENT.—Subparagraph (A)
6 of section 402(c)(3) is amended by striking “subpara-
7 graph (B)” and inserting “subparagraphs (B) and (C)”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2014.

11 **SEC. 1618. COORDINATION OF CONTRIBUTION LIMITA-**
12 **TIONS FOR 403(b) PLANS AND GOVERN-**
13 **MENTAL 457(b) PLANS.**

14 (a) 403(b) PLANS.—

15 (1) ELIMINATION OF SPECIAL CATCH-UP
16 RULE.—Subsection (g) of section 402 is amended by
17 striking paragraph (7) and by redesignating para-
18 graph (8) as paragraph (7).

19 (2) ELIMINATION OF POST TERMINATION NON-
20 ELECTIVE CONTRIBUTIONS.—Subsection (b) of sec-
21 tion 403 is amended—

22 (A) in paragraph (3), by striking “for the
23 most recent period” and all that follows
24 through “more than five years”, and

25 (B) by striking paragraph (4).

1 (3) ELIMINATION OF INCREASED CONTRIBU-
2 TION LIMIT FOR CHURCH PLANS.—Subsection (c) of
3 section 415 is amended by striking paragraph (7).

4 (4) ELIMINATION OF SEPARATE 415(c) LIM-
5 ITS.—Paragraph (4) of section 415(k) is amended
6 by striking “each employer with respect to which the
7 participant has the control required” and inserting
8 “the employer and each employer which is part of a
9 controlled group or under common control”.

10 (b) 457(b) PLANS.—

11 (1) ELIMINATION OF SEPARATE DEFERRAL
12 LIMIT.—Paragraph (3) of section 402(g) is amended
13 by striking “and” at the end of subparagraph (C),
14 by striking the period at the end of subparagraph
15 (D) and inserting “, and”, and by inserting after
16 subparagraph (D) the following new subparagraph:

17 “(E) any amount deferred under an eligi-
18 ble deferred compensation plan (as defined in
19 section 457(b)) of an eligible employer de-
20 scribed in section 457(e)(1)(A).”.

21 (2) TAKEN INTO ACCOUNT UNDER LIMITATION
22 FOR DEFINED CONTRIBUTION PLANS.—

23 (A) IN GENERAL.—Paragraph (2) of sec-
24 tion 415(a) is amended by striking “or” at the
25 end of subparagraph (B), by inserting “or” at

1 the end of subparagraph (C), and by inserting
2 after subparagraph (C) the following new sub-
3 paragraph:

4 “(D) an eligible deferred compensation
5 plan (as defined in section 457(b)) of an eligible
6 employer described in section 457(e)(1)(A).”.

7 (B) DEFINITION.—Paragraph (1) of sec-
8 tion 415(k) is amended by striking “or” at the
9 end of subparagraph (C), by striking the period
10 at the end of subparagraph (D) and inserting
11 “, or”, and by adding at the end the following
12 new subparagraph:

13 “(E) an eligible deferred compensation
14 plan (as defined in section 457(b)) of an eligible
15 employer described in section 457(e)(1)(A).”.

16 (3) ELIMINATION OF SPECIAL CATCH-UP
17 RULE.—Paragraph (3) of section 457(b) is amended
18 by inserting “, in the case of an eligible employer de-
19 scribed in subsection (e)(1)(B),” after “which”.

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 25B(d)(1)(B) is amended—

22 (A) by striking clause (ii), and

23 (B) by striking “the amount of—” and all
24 that follows through “any elective deferrals”

- 1 and inserting the following: “the amount of any
2 elective deferrals”.
- 3 (2) Section 402A(e)(2) is amended—
- 4 (A) by striking “, and” and all that follows
5 and inserting a period, and
- 6 (B) by striking “means—” and all that
7 follows through “any elective deferral described
8 in subparagraph (A) or (C)” and inserting the
9 following: “means any elective deferral de-
10 scribed in (A), (C), or (E)”.
- 11 (3) Section 457(e) is amended by striking para-
12 graph (18).
- 13 (4) Section 414(u)(2)(C) is amended by insert-
14 ing “by an eligible employer described in section
15 457(e)(1)(B)” after “(as defined in section
16 457(b))”.
- 17 (5) Section 414(v)(2)(D) is amended—
- 18 (A) by striking “clauses (i), (ii), and (iv)
19 of”, and
- 20 (B) by striking “, and plans described in
21 clause (iii)” and all that follows through the
22 end and inserting a period.
- 23 (6) Section 414(v)(3)(A)(i) is amended by strik-
24 ing “(determined without regard to section
25 457(b)(3))”.

1 (7) Section 414(v)(6)(B) is amended by striking
2 “subsection (u)(2)(C)” and inserting “section
3 402(g)(3)”.

4 (8) Section 414(v)(6) is amended by striking
5 subparagraph (C).

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to plan years and taxable years
8 beginning after December 31, 2014.

9 **SEC. 1619. APPLICATION OF 10-PERCENT EARLY DISTRIBU-**
10 **TION TAX TO GOVERNMENTAL 457 PLANS.**

11 (a) IN GENERAL.—Paragraph (1) of section 72(t) is
12 amended by inserting “or an eligible deferred compensa-
13 tion plan (as defined in section 457(b)) of an eligible em-
14 ployer described in section 457(e)(1)(A),” after “section
15 4974(c),”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to withdrawals on or after Feb-
18 ruary 26, 2014.

19 **SEC. 1620. INFLATION ADJUSTMENTS FOR QUALIFIED PLAN**
20 **BENEFIT AND CONTRIBUTION LIMITATIONS.**

21 (a) DEFINED BENEFIT PLANS.—

22 (1) CURRENT LIMIT.—Subparagraph (A) of
23 section 415(b)(1) is amended by striking
24 “\$160,000” and inserting “\$210,000”.

- 1 (2) INFLATION ADJUSTMENT.—Section 415(d)
2 is amended—
3 (A) in paragraph (1)(A)—
4 (i) by striking “\$160,000” and insert-
5 ing “\$210,000”, and
6 (ii) by inserting “for calendar years
7 beginning after 2023” after “subsection
8 (b)(1)(A)”,
9 (B) paragraph (3)(A), by striking “July 1,
10 2001” and inserting “July 1, 2022”.
- 11 (b) DEFINED CONTRIBUTION PLANS.—
12 (1) CURRENT LIMIT.—Subparagraph (A) of
13 section 415(e)(1) is amended by striking “\$40,000”
14 and inserting “\$52,000”.
- 15 (2) INFLATION ADJUSTMENT.—Subsection (d)
16 of section 415 is amended—
17 (A) in paragraph (1)(C)—
18 (i) by striking “\$40,000” and insert-
19 ing “\$52,000”,
20 (ii) by inserting “for calendar years
21 beginning after 2023” after “subsection
22 (c)(1)(A)”,
23 (B) in paragraph (3)(D), by striking “July
24 1, 2001” and inserting “July 1, 2022”.
- 25 (c) CONFORMING AMENDMENTS.—

1 (1) Section 415(b)(2) is amended by striking
2 “\$160,000” each place it appears in subparagraphs
3 (C) and (D) and inserting “\$210,000”.

4 (2) Section 415(b) is amended by striking
5 “\$160,000” in the fourth sentence of paragraph (7)
6 and inserting “\$210,000”.

7 (3) The headings for subparagraphs (C) and
8 (D) of section 415(b)(2) are each amended by strik-
9 ing “\$160,000” and inserting “\$210,000”.

10 (4) The heading for subparagraph (A) of sec-
11 tion 415(d)(3) is amended by striking “\$160,000”
12 and inserting “\$210,000”.

13 (5) The heading for subparagraph (D) of sec-
14 tion 415(d)(3) is amended by striking “\$40,000” and
15 inserting “\$52,000”.

16 (6) The heading for subparagraph (A) of sec-
17 tion 415(d)(4) is amended by striking “\$160,000”
18 and inserting “\$210,000”.

19 (7) The heading for subparagraph (B) of sec-
20 tion 415(d)(4) is amended by striking “\$40,000” and
21 inserting “\$52,000”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to years ending with or within a
24 calendar year beginning after 2014.

1 **SEC. 1621. INFLATION ADJUSTMENTS FOR QUALIFIED PLAN**
2 **ELECTIVE DEFERRAL LIMITATIONS.**

3 (a) CURRENT LIMIT.—Subparagraph (B) of section
4 402(g)(1) is amended by striking “shall be” and all that
5 follows and inserting “is \$17,500.”

6 (b) INFLATION ADJUSTMENT.—Paragraph (4) of sec-
7 tion 402(g) is amended—

8 (1) by striking “December 31, 2006” and in-
9 serting “December 31, 2023”,

10 (2) by striking “\$15,000” and inserting
11 “\$17,500”, and

12 (3) by striking “2005” and inserting “2022”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to plan years and taxable years
15 beginning after December 31, 2014.

16 **SEC. 1622. INFLATION ADJUSTMENTS FOR SIMPLE RETIRE-**
17 **MENT ACCOUNTS.**

18 (a) CURRENT LIMIT.—Clause (i) of section
19 408(p)(2)(E) is amended by striking “shall be” and all
20 that follows and inserting “shall be \$12,000”.

21 (b) INFLATION ADJUSTMENT.—Clause (ii) of section
22 408(p)(2)(E) is amended—

23 (1) by striking “December 31, 2005” and in-
24 serting “December 31, 2023”,

25 (2) by striking “\$10,000” and inserting
26 “\$12,000”,

1 (3) by striking “2004” and inserting “2022”.

2 (c) EFFECTIVE DATE.—The amendments made by
3 this section shall apply to calendar years beginning after
4 2014.

5 **SEC. 1623. INFLATION ADJUSTMENTS FOR CATCH-UP CON-**
6 **TRIBUTIONS FOR CERTAIN EMPLOYER**
7 **PLANS.**

8 (a) CURRENT LIMIT.—

9 (1) PLANS OTHER THAN SIMPLE 401(k) AND
10 SIMPLE RETIREMENT ACCOUNTS.—Clause (i) of sec-
11 tion 414(v)(2)(B) is amended by striking “deter-
12 mined in accordance with the following table” and
13 all that follows through the period at the end and
14 inserting “\$5,500.”.

15 (2) SIMPLE 401(k) AND SIMPLE RETIREMENT
16 ACCOUNTS.—Clause (ii) of section 414(v)(2)(B) is
17 amended by striking “determined in accordance with
18 the following table” and all that follows through the
19 period at the end and inserting “\$2,500.”.

20 (b) INFLATION ADJUSTMENT.—Subparagraph (C) of
21 section 414(v)(2) is amended—

22 (1) by striking “December 31, 2006” and in-
23 sserting “December 31, 2023”,

24 (2) by striking “\$5,000” and inserting
25 “\$5,500”, and

1 (3) by striking “2005” and inserting “2022”.

2 (c) EFFECTIVE DATE.—The amendments made by
3 this section shall apply to taxable years beginning after
4 December 31, 2014.

5 **SEC. 1624. INFLATION ADJUSTMENTS FOR GOVERNMENTAL**
6 **AND TAX-EXEMPT ORGANIZATION PLANS.**

7 (a) CURRENT LIMIT.—Subparagraph (A) of section
8 457(b)(2) is amended by striking “the applicable dollar
9 amount” and inserting “\$17,500”.

10 (b) INFLATION ADJUSTMENT.—Paragraph (15) of
11 section 457(e) is amended—

12 (1) by striking “APPLICABLE DOLLAR
13 AMOUNT.—” and all that follows through “COST-OF-
14 LIVING ADJUSTMENTS.—In the case of taxable years
15 beginning after December 31, 2006” and inserting
16 the following: “COST-OF-LIVING ADJUSTMENTS.—In
17 the case of taxable years beginning after December
18 31, 2023”,

19 (2) by striking “the \$15,000 amount under
20 subparagraph (A)” and inserting “the \$17,500
21 amount under subsection (b)(2)(A)”, and

22 (3) by striking “2005” and inserting “2022”.

23 (c) CONFORMING AMENDMENT.—Section
24 457(f)(4)(A) is amended by striking “twice the applicable
25 dollar limit determined under subsection (e)(15)” and in-

1 sserting “twice the amount in effect under subsection
2 (b)(2)(A)”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2014.

6 **Subtitle H—Certain Provisions Re-**
7 **lated to Members of Indian**
8 **Tribes**

9 **SEC. 1701. INDIAN GENERAL WELFARE BENEFITS.**

10 (a) IN GENERAL.—Part III of subchapter B of chap-
11 ter 1 is amended by inserting before section 140 the fol-
12 lowing new section:

13 **“SEC. 139E. INDIAN GENERAL WELFARE BENEFITS.**

14 “(a) IN GENERAL.—Gross income does not include
15 the value of any Indian general welfare benefit.

16 “(b) INDIAN GENERAL WELFARE BENEFIT.—For
17 purposes of this section, the term ‘Indian general welfare
18 benefit’ includes any payment made or services provided
19 to or on behalf of a member of an Indian tribe (or any
20 spouse or dependent of such a member) pursuant to an
21 Indian tribal government program, but only if—

22 “(1) the program is administered under speci-
23 fied written guidelines and does not discriminate in
24 favor of members of the governing body of the tribe,
25 and

1 “(2) the benefits provided under such pro-
2 gram—

3 “(A) are available to any tribal member
4 who meets such guidelines,

5 “(B) are for the promotion of general wel-
6 fare,

7 “(C) are not lavish or extravagant, and

8 “(D) are not compensation for services.

9 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
10 poses of this section—

11 “(1) INDIAN TRIBAL GOVERNMENT.—For pur-
12 poses of this section, the term ‘Indian tribal govern-
13 ment’ includes any agencies or instrumentalities of
14 an Indian tribal government and any Alaska Native
15 regional or village corporation, as defined in, or es-
16 tablished pursuant to, the Alaska Native Claims Set-
17 tlement Act (43 U.S.C. 1601, et seq.).

18 “(2) DEPENDENT.—The term ‘dependent’ has
19 the meaning given such term by section 7705, deter-
20 mined without regard to subsections (b)(1), (b)(2),
21 and (d)(1)(B).

22 “(3) LAVISH OR EXTRAVAGANT.—The Sec-
23 retary shall, in consultation with the Tribal Advisory
24 Committee (as established under section 1702 of the
25 Tax Reform Act of 2014), establish guidelines for

1 what constitutes lavish or extravagant benefits with
2 respect to Indian tribal government programs.

3 “(4) ESTABLISHMENT OF TRIBAL GOVERNMENT
4 PROGRAM.—A program shall not fail to be treated as
5 an Indian tribal government program solely by rea-
6 son of the program being established by tribal cus-
7 tom or government practice.”.

8 (b) CONFORMING AMENDMENT.—The table of sec-
9 tions for part III of subchapter B of chapter 1 is amended
10 by inserting before the item relating to section 140 the
11 following new item:

“Sec. 139E. Indian general welfare benefits.”.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by
14 this section shall apply to taxable years for which
15 the period of limitation on refund or credit under
16 section 6511 of the Internal Revenue Code of 1986
17 has not expired.

18 (2) ONE-YEAR WAIVER OF STATUTE OF LIMITA-
19 TIONS.—If the period of limitation on a credit or re-
20 fund resulting from the amendments made by sub-
21 section (a) expires before the end of the 1-year pe-
22 riod beginning on the date of the enactment of this
23 Act, refund or credit of such overpayment (to the ex-
24 tent attributable to such amendments) may, never-

1 theless, be made or allowed if claim therefor is filed
2 before the close of such 1-year period.

3 **SEC. 1702. TRIBAL ADVISORY COMMITTEE.**

4 (a) ESTABLISHMENT.—The Secretary of the Treas-
5 ury shall establish a Tribal Advisory Committee (herein-
6 after in this subsection referred to as the “Committee”).

7 (b) DUTIES.—

8 (1) IMPLEMENTATION.—The Committee shall
9 advise the Secretary on matters relating to the tax-
10 ation of Indians.

11 (2) EDUCATION AND TRAINING.—The Secretary
12 shall, in consultation with the Committee, establish
13 and require—

14 (A) training and education for internal rev-
15 enue field agents who administer and enforce
16 internal revenue laws with respect to Indian
17 tribes on Federal Indian law and the Federal
18 Government’s unique legal treaty and trust re-
19 lationship with Indian tribal governments, and

20 (B) training of such internal revenue field
21 agents, and provision of training and technical
22 assistance to tribal financial officers, about im-
23 plementation of this Act and the amendments
24 made thereby.

25 (c) MEMBERSHIP.—

1 (1) IN GENERAL.—The Committee shall be
2 composed of 7 members appointed as follows:

3 (A) Three members appointed by the Sec-
4 retary of the Treasury.

5 (B) One member appointed by the Chair-
6 man, and one member appointed by the Rank-
7 ing Member, of the Committee on Ways and
8 Means of the House of Representatives.

9 (C) One member appointed by the Chair-
10 man, and one member appointed by the Rank-
11 ing Member, of the Committee on Finance of
12 the Senate.

13 (2) TERM.—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), each member's term shall be
16 4 years.

17 (B) INITIAL STAGGERING.—The first ap-
18 pointments made by the Secretary under para-
19 graph (1)(A) shall be for a term of 2 years.

20 **SEC. 1703. OTHER RELIEF FOR INDIAN TRIBES.**

21 (a) WAIVER OF PENALTIES AND INTEREST.—The
22 Secretary of the Treasury may waive any interest and pen-
23 alties imposed under the Internal Revenue Code of 1986
24 on any Indian tribal government or member of an Indian
25 tribe (or any spouse or dependent of such a member) to

1 the extent such interest and penalties relate to excluding
2 a payment or benefit from gross income under the general
3 welfare exclusion.

4 (b) DEFINITIONS.—For purposes of this section—

5 (1) INDIAN TRIBAL GOVERNMENT.—The term
6 “Indian tribal government” shall have the meaning
7 given such term by section 139E of such Code, as
8 added by this Act.

9 (2) INDIAN TRIBE.—The term “Indian tribe”
10 shall have the meaning given such term by section
11 139D(e)(1) of such Code, as amended by this Act.

12 **TITLE II—ALTERNATIVE**
13 **MINIMUM TAX REPEAL**

14 **SEC. 2001. REPEAL OF ALTERNATIVE MINIMUM TAX.**

15 (a) IN GENERAL.—Subchapter A of chapter 1 is
16 amended by striking part VI (and by striking the item
17 relating to such part in the table of parts for subchapter
18 A).

19 (b) CREDIT FOR PRIOR YEAR MINIMUM TAX LIABIL-
20 ITY.—

21 (1) LIMITATION.—Subsection (c) of section 53
22 is amended to read as follows:

23 “(c) LIMITATION.—The credit allowed under sub-
24 section (a) shall not exceed the regular tax liability of the

1 taxpayer reduced by the sum of the credits allowed under
2 subparts A, B, and D.”.

3 (2) CREDITS TREATED AS REFUNDABLE.—Sub-
4 section (e) of section 53 is amended to read as fol-
5 lows:

6 “(e) PORTION OF CREDIT TREATED AS REFUND-
7 ABLE.—

8 “(1) IN GENERAL.—In the case of any taxable
9 year beginning in 2016, 2017, 2018, or 2019, the
10 limitation under subsection (e) shall be increased by
11 the AMT refundable credit amount for such year.

12 “(2) AMT REFUNDABLE CREDIT AMOUNT.—
13 For purposes of paragraph (1), the AMT refundable
14 credit amount is an amount equal to 50 percent
15 (100 percent in the case of a taxable year beginning
16 in 2019) of the excess (if any) of—

17 “(A) the minimum tax credit determined
18 under subsection (b) for the taxable year, over

19 “(B) the minimum tax credit allowed
20 under subsection (a) for such year (before the
21 application of this subsection for such year).

22 “(3) CREDIT REFUNDABLE.—For purposes of
23 this title (other than this section), the credit allowed
24 by reason of this subsection shall be treated as a

1 credit allowed under subpart C (and not this sub-
2 part).

3 “(4) SHORT TAXABLE YEARS.—In the case of
4 any taxable year of less than 365 days, the AMT re-
5 fundable credit amount determined under paragraph
6 (2) with respect to such taxable year shall be the
7 amount which bears the same ratio to such amount
8 determined without regard to this paragraph as the
9 number of days in such taxable year bears to 365.”.

10 (3) TREATMENT OF REFERENCES.—Section
11 53(d) is amended by adding at the end the following
12 new paragraph:

13 “(3) AMT TERM REFERENCES.—Any references
14 in this subsection to section 55, 56, or 57 shall be
15 treated as a reference to such section as in effect be-
16 fore its repeal by the Tax Reform Act of 2014.”.

17 (4) REPEAL OF SPECIAL RULES WITH RESPECT
18 TO TREATMENT OF INCENTIVE STOCK OPTIONS.—
19 Section 53 is amended by striking subsection (f).

20 (c) CONFORMING AMENDMENTS RELATED TO AMT
21 REPEAL.—

22 (1) Section 2(e), as redesignated by section
23 1001, is amended by striking “sections 1 and 55”
24 and inserting “section 1”.

1 (2) Section 5(a) is amended by striking para-
2 graph (4).

3 (3) Section 11(d) is amended by striking “the
4 taxes imposed by subsection (a) and section 55” and
5 inserting “the tax imposed by subsection (a)”.

6 (4) Section 13, as redesignated by title I, is
7 amended by striking paragraph (7).

8 (5) Section 26(a) is amended to read as follows:
9 “(a) LIMITATION BASED ON AMOUNT OF TAX.—The
10 aggregate amount of credits allowed by this subpart for
11 the taxable year shall not exceed the taxpayer’s regular
12 tax liability for the taxable year.”.

13 (6) Section 26(b)(2) is amended by striking
14 subparagraph (A).

15 (7) Section 26 is amended by striking sub-
16 section (c).

17 (8) Section 38(e) is amended—

18 (A) by striking paragraphs (1) through
19 (5),

20 (B) by redesignating paragraph (6) as
21 paragraph (2),

22 (C) by inserting before paragraph (2) (as
23 so redesignated) the following new paragraph:

1 “(1) IN GENERAL.—The credit allowed under
2 subsection (a) for any taxable year shall not exceed
3 the excess of—
4 “(A) the sum of—
5 “(i) so much of the regular tax liabil-
6 ity as does not exceed \$25,000, plus
7 “(ii) 75 percent of so much of the reg-
8 ular tax liability as exceeds \$25,000, over
9 “(B) the sum of the credits allowable
10 under subparts A and B of this part.”, and
11 (D) by striking “subparagraph (B) of
12 paragraph (1)” each place it appears in para-
13 graph (2) (as so redesignated) and inserting
14 “clauses (i) and (ii) of paragraph (1)(A)”.

15 (9) Section 45D(g)(4)(B) is amended by strik-
16 ing “or for purposes of section 55”.

17 (10) Section 54(e)(1) is amended to read as fol-
18 lows:
19 “(1) regular tax liability (as defined in section
20 26(b)), over”.

21 (11) Section 54A(c)(1)(A) is amended to read
22 as follows:
23 “(A) regular tax liability (as defined in
24 section 26(b)), over”.

1 (12)(A) Section 108(b)(2) is amended by strik-
2 ing subparagraph (C) and by redesignating subpara-
3 graphs (D) through (G) as subparagraphs (C)
4 through (F), respectively.

5 (B) Section 108(b)(3)(B) is amended—

6 (i) by striking “subparagraphs (B), (C),
7 and (G)” and inserting “subparagraphs (B)
8 and (F) of paragraph (2)”, and

9 (ii) by striking “subparagraph (F)” and
10 inserting “paragraph (2)(E)”.

11 (C) Section 108(b)(4)(B) is amended by strik-
12 ing “subparagraph (A) or (D)” in the heading and
13 text thereof and inserting “subparagraph (A) or
14 (C)”.

15 (D) Section 108(b)(4)(C) is amended by strik-
16 ing “subparagraphs (B) and (G)” in the heading
17 and text thereof and inserting “subparagraphs (B)
18 and (F)”.

19 (13) Section 168(k)(2) is amended by striking
20 subparagraph (G).

21 (14) Section 173 is amended by striking sub-
22 section (b).

23 (15) Section 174(f) is amended to read as fol-
24 lows:

1 “(f) CROSS REFERENCE.—For adjustments to basis
2 of property for amounts allowed as deductions as deferred
3 expenses under subsection (b), see section 1016(a)(14).”.

4 (16) Section 263A(c) is amended by striking
5 paragraph (6).

6 (17) Section 382(l) is amended by striking
7 paragraph (7) and by redesignating paragraph (8)
8 as paragraph (7).

9 (18) Section 443 (relating to returns for a pe-
10 riod of less than 12 months) adjustment in com-
11 puting minimum tax and tax preferences) is amend-
12 ed by striking subsection (d) and by redesignating
13 subsection (e) as subsection (d).

14 (19) Section 641(c) is amended—

15 (A) in paragraph (2) by striking subpara-
16 graph (B) and by redesignating subparagraphs
17 (C) and (D) as subparagraphs (B) and (C), re-
18 spectively, and

19 (B) in paragraph (3), by striking “para-
20 graph (2)(C)” and inserting “paragraph
21 (2)(B)”.

22 (20) Subsections (b) and (e) of section 666 are
23 each amended by striking “(other than the tax im-
24 posed by section 55)”.

- 1 (21) Section 815(c)(2) is amended by striking
2 the last sentence.
- 3 (22) Section 847 is amended—
- 4 (A) by striking the last sentence of para-
5 graph (9), and
- 6 (B) in paragraph (10), by inserting “and”
7 at the end of subparagraph (A), by striking
8 subparagraph (B), and by redesignating sub-
9 paragraph (C) as subparagraph (B).
- 10 (23) Section 848 is amended by striking sub-
11 section (i) and by redesignating subsection (j) as
12 subsection (i).
- 13 (24) Section 860E(a) is amended by striking
14 paragraph (4).
- 15 (25) Section 871(b)(1) is amended by striking
16 “or 55”.
- 17 (26) Section 882(a)(1) is amended by striking
18 “55,”.
- 19 (27) Section 897(a) is amended to read as fol-
20 lows:
- 21 “(a) TREATMENT AS EFFECTIVELY CONNECTED
22 WITH UNITED STATES TRADE OR BUSINESS.—For pur-
23 poses of this title, gain or loss of a nonresident alien indi-
24 vidual or a foreign corporation from the disposition of a

1 United States real property interest shall be taken into
2 account—

3 “(1) in the case of a nonresident alien indi-
4 vidual, under section 871(b)(1), or

5 “(2) in the case of a foreign corporation, under
6 section 882(a)(1), as if the taxpayer were engaged
7 in a trade or business within the United States dur-
8 ing the taxable year and as if such gain or loss were
9 effectively connected with such trade or business.”.

10 (28) Section 904(k) is amended to read as fol-
11 lows:

12 “(k) CROSS REFERENCE.—For increase of limitation
13 under subsection (a) for taxes paid with respect to
14 amounts received which were included in the gross income
15 of the taxpayer for a prior taxable year as a United States
16 shareholder with respect to a controlled foreign corpora-
17 tion, see section 960(b).”.

18 (29) Section 911(f) is amended to read as fol-
19 lows:

20 “(f) DETERMINATION OF TAX LIABILITY.—If, for
21 any taxable year, any amount is excluded from gross in-
22 come of a taxpayer under subsection (a), then, notwith-
23 standing section 1, if such taxpayer has taxable income
24 for such taxable year, the tax imposed by section 1 for
25 such taxable year shall be equal to the excess (if any) of—

1 “(1) the tax which would be imposed by section
2 1 for such taxable year if the taxpayer’s taxable in-
3 come were increased by the amount excluded under
4 subsection (a) for such taxable year, over

5 “(2) the tax which would be imposed by section
6 1 for such taxable year if the taxpayer’s taxable in-
7 come were equal to the amount excluded under sub-
8 section (a) for such taxable year.”.

9 (30) Section 962(a)(1) is amended—

10 (A) by striking “sections 1 and 55” and
11 inserting “section 1”, and

12 (B) by striking “sections 11 and 55” and
13 inserting “section 11”.

14 (31) Section 1016(a) is amended by striking
15 paragraph (20).

16 (32) Section 1202(a)(4) is amended by insert-
17 ing “and” at the end of subparagraph (A), by strik-
18 ing “, and” and inserting a period at the end of sub-
19 paragraph (B), and by striking subparagraph (C).

20 (33) Section 1374(b)(3)(B) is amended by
21 striking the last sentence thereof.

22 (34) Section 1397E(c)(1) is amended to read as
23 follows:

24 “(1) regular tax liability (as defined in section
25 26(b), over”.

1 (35) Section 1561(a) is amended—

2 (A) by inserting “and” at the end of para-
3 graph (1), by striking the comma at the end of
4 paragraph (2) and inserting a period, and by
5 striking paragraphs (3) and (4), and

6 (B) by striking the last sentence.

7 (36) Section 6015(d)(2)(B) is amended by
8 striking “or 55”.

9 (37) Section 6425(c)(1)(A) is amended—

10 (A) by adding “plus” at the end of clause
11 (i), and

12 (B) by striking clause (ii) and by redesignig-
13 nating clause (iii) as clause (ii).

14 (38) Section 6654(d)(2) is amended—

15 (A) in clause (i) of subparagraph (B), by
16 striking “, alternative minimum taxable in-
17 come,” and

18 (B) in clause (i) of subparagraph (C), by
19 striking “, alternative minimum taxable in-
20 come,”.

21 (39) Section 6655(e)(2)(B) is amended—

22 (A) by striking “The taxable income, alter-
23 native minimum taxable income, and modified
24 alternative taxable income shall” and inserting
25 “Taxable income shall”, and

- 1 (B) by striking clause (iii).
2 (40) Section 6655(g)(1)(A) is amended—
3 (A) by striking clause (ii), and
4 (B) by redesignating clauses (iii) and (iv)
5 as clauses (ii) and (iii), respectively.
6 (41) Section 6662(e)(3)(C) is amended by strik-
7 ing “the regular tax (as defined in section 55(c))”
8 and inserting “the regular tax liability (as defined in
9 section 26(b))”.
- 10 (d) EFFECTIVE DATES.—
11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the amendments made by
13 this section shall apply to taxable years beginning
14 after December 31, 2014.
15 (2) PRIOR ELECTIONS WITH RESPECT TO CER-
16 TAIN TAX PREFERENCES.—So much of the amend-
17 ment made by subsection (a) as relates to the repeal
18 of section 59(e) of the Internal Revenue Code of
19 1986 shall apply to amounts paid or incurred after
20 December 31, 2014.
21 (3) TREATMENT OF NET OPERATING LOSS
22 CARRYBACKS.—For purposes of section 56(d) of the
23 Internal Revenue Code of 1986 (as in effect before
24 its repeal), the amount of any net operating loss
25 which may be carried back from a taxable year be-

1 ginning after December 31, 2014, to taxable years
2 beginning before January 1, 2015, shall be deter-
3 mined without regard to any adjustments under sec-
4 tion 56(d)(2)(A) of such Code (as so in effect).

5 **TITLE III—BUSINESS TAX**

6 **REFORM**

7 **Subtitle A—Tax Rates**

8 **SEC. 3001. 25-PERCENT CORPORATE TAX RATE.**

9 (a) IN GENERAL.—Subsection (b) of section 11 is
10 amended to read as follows:

11 “(b) AMOUNT OF TAX.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), the amount of the tax imposed by sub-
14 section (a) shall be 25 percent of taxable income.

15 “(2) PHASE-IN FOR TAXABLE YEARS BEGIN-
16 NING BEFORE 2019.—

17 “(A) IN GENERAL.—In the case of taxable
18 years beginning before 2019, the amount of tax
19 imposed by subsection (a) shall be the sum of—

20 “(i) 25 percent of so much of the tax-
21 able income as does not exceed \$75,000,

22 and

23 “(ii) the applicable percentage of so
24 much of taxable income as exceeds
25 \$75,000.

1 “(B) APPLICABLE PERCENTAGE.—For
 2 purposes of this paragraph, the applicable per-
 3 centage shall be determined in accordance with
 4 the following table:

“In the case of taxable years be- ginning during calendar year	The applicable percentage is:
2015	33%
2016	31%
2017	29%
2018	27%”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Paragraphs (2)(B) and (6)(A)(ii) of section
 7 860E(e) are each amended by striking “section
 8 11(b)(1)” and inserting “section 11(b)”.

9 (2)(A) Part I of subchapter P of chapter 1 is
 10 amended by striking section 1201 (and by striking
 11 the item relating to such section in the table of sec-
 12 tions for such part).

13 (B) Section 13, as amended and redesignated
 14 by the preceding provisions of this Act, is amended
 15 by striking paragraphs (4) and (6), and by redesign-
 16 ating paragraph (5) as paragraph (4).

17 (C) Section 527(b) is amended—

18 (i) by striking paragraph (2), and

19 (ii) by striking all that precedes “is hereby
 20 imposed” and inserting:

21 “(b) TAX IMPOSED.—A tax”.

1 (D) Sections 594(a) is amended by striking
2 “taxes imposed by section 11 or 1201(a)” and in-
3 serting “tax imposed by section 11”.

4 (E) Section 691(c)(4) is amended by striking
5 “1201.”

6 (F) Section 801(a) is amended—
7 (i) by striking paragraph (2), and
8 (ii) by striking all that precedes “is hereby
9 imposed” and inserting:
10 “(a) TAX IMPOSED.—A tax”.

11 (G) Section 831(d) is amended by striking
12 paragraph (1) and by redesignating paragraphs (2)
13 and (3) as paragraphs (1) and (2), respectively.

14 (H) Sections 832(c)(5) and 834(b)(1)(D) are
15 each amended by striking “sec. 1201 and fol-
16 lowing.”

17 (I) Section 852(b)(3)(A) is amended by striking
18 “section 1201(a)” and inserting “section 11(b)”.

19 (J) Section 857(b)(3) is amended—
20 (i) by striking subparagraph (A) and re-
21 designating subparagraphs (B) through (F) as
22 subparagraphs (A) through (E), respectively,
23 (ii) in subparagraph (C), as so redesign-
24 nated—

- 1 (I) by striking “subparagraph (A)(ii)”
2 in clause (i) thereof and inserting “para-
3 graph (1)”,
- 4 (II) by striking “the tax imposed by
5 subparagraph (A)(ii)” in clauses (ii) and
6 (iv) thereof and inserting “the tax imposed
7 by paragraph (1) on undistributed capital
8 gain”,
- 9 (iii) in subparagraph (E), as so redesign-
10 ated, by striking “subparagraph (B) or (D)”
11 and inserting “subparagraph (A) or (C)”, and
- 12 (iv) by adding at the end the following new
13 subparagraph:
- 14 “(F) **UNDISTRIBUTED CAPITAL GAIN.**—
15 For purposes of this paragraph, the term ‘un-
16 distributed capital gain’ means the excess of the
17 net capital gain over the deduction for divi-
18 dends paid (as defined in section 561) deter-
19 mined with reference to capital gain dividends
20 only.”.
- 21 (K) Section 882(a)(1) is amended by striking “,
22 or 1201(a)”.
- 23 (L) Section 1374(b) is amended by striking
24 paragraph (4).

1 (M) Section 1381(b) is amended by striking
2 “taxes imposed by section 11 or 1201” and inserting
3 “tax imposed by section 11”.

4 (N) Sections 6425(e)(1)(A)(i) and
5 6655(g)(1)(A)(i) are each amended by striking “or
6 1201(a),”.

7 (3)(A) Section 1445(e)(1) is amended—

8 (i) by striking “35 percent” and inserting
9 “the highest rate of tax in effect for the taxable
10 year under section 11(b)”, and

11 (ii) by striking “of the gain” and inserting
12 “multiplied by the gain”.

13 (B) Section 1445(e)(2) is amended by striking
14 “35 percent of the amount” and inserting “the high-
15 est rate of tax in effect for the taxable year under
16 section 11(b) multiplied by the amount”.

17 (C) Section 1445(e)(6) is amended—

18 (i) by striking “35 percent” and inserting
19 “the highest rate of tax in effect for the taxable
20 year under section 11(b)”, and

21 (ii) by striking “of the amount” and in-
22 serting “multiplied by the amount”.

23 (D) Section 1446(b)(2)(B) is amended by strik-
24 ing “section 11(b)(1)” and inserting “section
25 11(b)”.

1 (4) Section 852(b)(1) is amended by striking
2 the last sentence.

3 (5)(A) Part I of subchapter B of chapter 5 is
4 amended by striking section 1551 (and by striking
5 the item relating to such section in the table of sec-
6 tions for such part).

7 (B) Section 535(c)(5) is amended to read as
8 follows:

9 “(5) CROSS REFERENCE.—For limitation on
10 credit provided in paragraph (2) or (3) in the case
11 of certain controlled corporations, see section
12 1561.”.

13 (6)(A) Section 1561, as amended by the pre-
14 ceding provisions of this Act, is amended to read as
15 follows:

16 **“SEC. 1561. LIMITATION ON ACCUMULATED EARNINGS**
17 **CREDIT IN THE CASE OF CERTAIN CON-**
18 **TROLLED CORPORATIONS.**

19 “(a) IN GENERAL.—The component members of a
20 controlled group of corporations on a December 31 shall,
21 for their taxable years which include such December 31,
22 be limited for purposes of this subtitle to one \$250,000
23 (\$150,000 if any component member is a corporation de-
24 scribed in section 535(c)(2)(B)) amount for purposes of
25 computing the accumulated earnings credit under section

1 535(c)(2) and (3). Such amount shall be divided equally
2 among the component members of such group on such De-
3 cember 31 unless the Secretary prescribes regulations per-
4 mitting an unequal allocation of such amount.

5 “(b) CERTAIN SHORT TAXABLE YEARS.—If a cor-
6 poration has a short taxable year which does not include
7 a December 31 and is a component member of a controlled
8 group of corporations with respect to such taxable year,
9 then for purposes of this subtitle, the amount to be used
10 in computing the accumulated earnings credit under sec-
11 tion 535(c)(2) and (3) of such corporation for such taxable
12 year shall be the amount specified in subsection (a) with
13 respect to such group, divided by the number of corpora-
14 tions which are component members of such group on the
15 last day of such taxable year. For purposes of the pre-
16 ceding sentence, section 1563(b) shall be applied as if such
17 last day were substituted for December 31.”

18 (B) The table of sections for part II of sub-
19 chapter B of chapter 5 is amended by striking the
20 item relating to section 1561 and inserting the fol-
21 lowing new item:

“Sec. 1561. Limitation on accumulated earnings credit in the case of certain
controlled corporations.”

22 (7) Section 7874(e)(1)(B) is amended by strik-
23 ing “section 11(b)(1)” and inserting “section
24 11(b)”.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendments made by
4 this section shall apply to taxable years beginning
5 after December 31, 2014.

6 (2) WITHHOLDING.—The amendments made by
7 subsection (b)(3) shall apply to distributions made
8 after December 31, 2014.

9 (3) CERTAIN TRANSFERS.—The amendments
10 made by subsection (b)(5) shall apply to transfers
11 made after December 31, 2018.

12 (4) CERTAIN OTHER AMENDMENTS RELATED
13 TO SINGLE RATE OF TAX.—The amendments made
14 by paragraphs (4) and (6) of subsection (b) shall
15 apply to taxable years beginning after December 31,
16 2018.

17 **Subtitle B—Reform of Business-**
18 **related Exclusions and Deductions**

19 **SEC. 3101. REVISION OF TREATMENT OF CONTRIBUTIONS**
20 **TO CAPITAL.**

21 (a) INCLUSION OF CONTRIBUTIONS TO CAPITAL.—
22 Part II of subchapter B of chapter 1 is amended by insert-
23 ing after section 75 the following new section:

24 **“SEC. 76. CONTRIBUTIONS TO CAPITAL.**

25 “(a) IN GENERAL.—Gross income includes—

1 “(1) any contribution to the capital of any enti-
2 ty, and

3 “(2) any premium received by such entity with
4 respect to any option on any interest in such entity.

5 “(b) TREATMENT OF CONTRIBUTIONS IN EXCHANGE
6 FOR STOCK, ETC.—

7 “(1) IN GENERAL.—In the case of any con-
8 tribution of money or other property to a corpora-
9 tion in exchange for stock of such corporation—

10 “(A) such contribution shall not be treated
11 for purposes of subsection (a) as a contribution
12 to the capital of such corporation (and shall not
13 be includible in the gross income of such cor-
14 poration), and

15 “(B) no gain or loss shall be recognized to
16 such corporation upon the issuance of such
17 stock.

18 “(2) TREATMENT LIMITED TO VALUE OF
19 STOCK.— For purposes of this subsection, a con-
20 tribution of money or other property to a corpora-
21 tion shall be treated as being in exchange for stock
22 of such corporation only to the extent that the fair
23 market value of such money and other property does
24 not exceed the fair market value of such stock.

1 “(3) APPLICATION TO ENTITIES OTHER THAN
2 CORPORATIONS.—In the case of any entity other
3 than a corporation, rules similar to the rules of
4 paragraphs (1) and (2) shall apply in the case of
5 any contribution of money or other property to such
6 entity in exchange for any interest in such entity.

7 “(c) TREASURY STOCK TREATED AS STOCK.—Any
8 reference in this section to stock shall be treated as includ-
9 ing a reference to treasury stock.”.

10 (b) BASIS OF CORPORATION IN CONTRIBUTED PROP-
11 ERTY.—

12 (1) CONTRIBUTIONS TO CAPITAL.—Subsection
13 (c) of section 362 is amended to read as follows:

14 “(c) CONTRIBUTIONS TO CAPITAL.—If property
15 other than money is transferred to a corporation as a con-
16 tribution to the capital of such corporation (within the
17 meaning of section 76) then the basis of such property
18 shall be the greater of—

19 “(1) the basis determined in the hands of the
20 transferor, increased by the amount of gain recog-
21 nized to the transferor on such transfer, or

22 “(2) the amount included in gross income by
23 such corporation under section 76 with respect to
24 such contribution.”.

1 (2) CONTRIBUTIONS IN EXCHANGE FOR
2 STOCK.—Paragraph (2) of section 362(a) is amend-
3 ed by striking “contribution to capital” and insert-
4 ing “contribution in exchange for stock of such cor-
5 poration (determined under rules similar to the rules
6 of paragraphs (2) and (3) of section 76(b))”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Section 108(e) is amended by striking para-
9 graph (6).

10 (2) Part III of subchapter B of chapter 1 is
11 amended by striking section 118 (and by striking
12 the item relating to such section in the table of sec-
13 tions for such part).

14 (3) The table of sections for part II of sub-
15 chapter B of chapter 1 is amended by inserting after
16 the item relating to section 75 the following new
17 item:

“Sec. 76. Contributions to capital.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to contributions made, and trans-
20 actions entered into, after the date of the enactment of
21 this Act.

22 **SEC. 3102. REPEAL OF DEDUCTION FOR LOCAL LOBBYING**
23 **EXPENSES.**

24 (a) IN GENERAL.—Section 162(e) is amended by
25 striking paragraphs (2) and (7) and by redesignating

1 paragraphs (3), (4), (5), (6), and (8) as paragraphs (2),
2 (3), (4), (5), and (6), respectively.

3 (b) CONFORMING AMENDMENT.—Section
4 6033(e)(1)(B)(ii) is amended by striking “section
5 162(e)(5)(B)(ii)” and inserting “section
6 162(e)(4)(B)(ii)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to amounts paid or incurred after
9 December 31, 2014.

10 **SEC. 3103. EXPENDITURES FOR REPAIRS IN CONNECTION**
11 **WITH CASUALTY LOSSES.**

12 (a) IN GENERAL.—Section 165, as amended by the
13 preceding provisions of this Act, is amended by inserting
14 after subsection (g) the following new subsection:

15 “(h) SPECIAL RULE FOR CASUALTY LOSSES.—

16 “(1) EXPENDITURES FOR REPAIRS IN CONNEC-
17 TION WITH CASUALTY LOSSES.—If a deduction is al-
18 lowable under this section for any casualty loss with
19 respect to any property, any expenditure made for
20 any repair of damage to such property in connection
21 with such casualty loss shall be treated as a perma-
22 nent improvement made to increase the value of
23 such property for purposes of section 263(a)(1).

24 “(2) ELECTION TO EXPENSE REPAIR IN LIEU
25 OF DEDUCTING CASUALTY LOSS.—If the taxpayer

1 elects the application of this paragraph with respect
2 to any property with respect to which there is a cas-
3 ualty loss, no deduction shall be allowable under this
4 section for the casualty loss with respect to such
5 property and paragraph (1) shall not apply to ex-
6 penditures made for repair of damage to such prop-
7 erty in connection with such casualty loss. Any elec-
8 tion under this paragraph shall be made not later
9 than the due date for the return of tax (including
10 extensions) for the taxable year in which the cas-
11 ualty loss occurs and, once made, may be revoked
12 only with the consent of the Secretary.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to losses sustained after December
15 31, 2014.

16 **SEC. 3104. REFORM OF ACCELERATED COST RECOVERY**
17 **SYSTEM.**

18 (a) APPLICABLE DEPRECIATION METHOD.—Sub-
19 section (b) of section 168 is amended to read as follows:

20 “(b) APPLICABLE DEPRECIATION METHOD.—For
21 purposes of this section—

22 “(1) IN GENERAL.—The applicable depreciation
23 method is the straight line method.

24 “(2) SALVAGE VALUE TREATED AS ZERO.—Sal-
25 vage value shall be treated as zero.”.

1 (b) APPLICABLE RECOVERY PERIOD.—Subsection (c)
2 of section 168 is amended to read as follows:

3 “(c) APPLICABLE RECOVERY PERIOD.—For purposes
4 of this section—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), the applicable recovery period for any
7 property is the class life of such property.

8 “(2) SPECIAL RULES FOR DETERMINING CLASS
9 LIFE OF CERTAIN PROPERTY.—

10 “(A) PROPERTY WITH NO CLASS LIFE.—In
11 the case of personal property with no class life,
12 the recovery period is 12 years.

13 “(B) CERTAIN HORSES.—In the case of
14 any race horse, and any horse other than a race
15 horse which is more than 12 years old at the
16 time it is placed in service, 3 years.

17 “(C) SEMI-CONDUCTOR MANUFACTURING
18 EQUIPMENT.—In the case of any semi-con-
19 ductor manufacturing equipment, the recovery
20 period is 5 years.

21 “(D) QUALIFIED TECHNOLOGICAL EQUIP-
22 MENT.—In the case of any qualified techno-
23 logical equipment, the recovery period is 5
24 years.

1 “(E) AUTOMOBILE OR LIGHT GENERAL
2 PURPOSE TRUCK.—In the case of any auto-
3 mobile or light general purpose truck, the recov-
4 ery period is 5 years.

5 “(F) QUALIFIED RENT-TO-OWN PROP-
6 ERTY.—In the case of any qualified rent-to-own
7 property, the recovery period is 9 years.

8 “(G) CERTAIN TELEPHONE SWITCHING
9 EQUIPMENT.—In the case of any computer-
10 based telephone central office switching equip-
11 ment, the recovery period is 9.5 years.

12 “(H) RAILROAD TRACK.—In the case of
13 any railroad track, the recovery period is 10
14 years.

15 “(I) SMART ELECTRIC DISTRIBUTION
16 PROPERTY.—In the case of qualified smart elec-
17 tric meters and qualified smart electric grid sys-
18 tems, the recovery period is 10 years.

19 “(J) AIRPLANES.—In the case of any
20 fixed-wing aircraft (including any fixed-wing
21 airframe or engine), the recovery period is 12
22 years.

23 “(K) NATURAL GAS GATHERING LINE.—In
24 the case of any natural gas gathering line, the
25 recovery period is 14 years.

1 “(L) TREE OR VINE BEARING FRUIT OR
2 NUTS.—In the case of any tree or vine bearing
3 fruit or nuts, the recovery period is 20 years.

4 “(M) TELEPHONE DISTRIBUTION
5 PLANT.—In the case of any telephone distribu-
6 tion plant and comparable equipment used for
7 2-way exchange of voice and data communica-
8 tions by cable, the recovery period is 24 years.

9 “(N) REAL PROPERTY.—In the case of
10 nonresidential real property, residential rental
11 property, and any section 1245 property (as de-
12 fined in section 1245(a)(3)) which is real prop-
13 erty with no class life, the recovery period is 40
14 years.

15 “(O) WATER TREATMENT AND UTILITY
16 PROPERTY.—In the case of any municipal
17 wastewater treatment plant or water utility
18 property, the recovery period is 50 years.

19 “(P) CLEARING AND GRADING IMPROVE-
20 MENTS; TUNNEL BORE.—In the case of any
21 clearing and grading land improvements or tun-
22 nel bore, the recovery period is 50 years.

23 “(Q) TAX-EXEMPT USE PROPERTY SUB-
24 JECT TO LEASE.—In the case of any tax-exempt
25 use property subject to a lease, the recovery pe-

1 riod used for purposes of paragraph (2) shall
2 (notwithstanding any other subparagraph of
3 this paragraph) in no event be less than 125
4 percent of the lease term.”.

5 (c) NEUTRAL COST RECOVERY SYSTEM.—Section
6 168, as amended by subsection (f), is amended by adding
7 at the end the following new subsection:

8 “(i) NEUTRAL COST RECOVERY SYSTEM.—

9 “(1) IN GENERAL.—In the case of any property
10 (to which this section applies) placed in service by
11 the taxpayer in a taxable year for which such tax-
12 payer has elected the application of this subsection,
13 the deduction determined under subsection (a) with
14 respect to such property for any taxable year shall
15 be increased by an amount equal to the product of—

16 “(A) the modified adjusted basis of such
17 property determined as of the close of such tax-
18 able year (determined without regard to this
19 subsection but after taking all other adjust-
20 ments for such taxable year into account), mul-
21 tiplied by

22 “(B) the inflation adjustment percentage
23 for the calendar year in which such taxable year
24 begins.

1 “(2) MODIFIED ADJUSTED BASIS.—For pur-
2 poses of this subsection, the term ‘modified adjusted
3 basis’ means, with respect to any property, the ad-
4 justed basis which would be determined with respect
5 to such property if this subsection never applied to
6 such property.

7 “(3) INFLATION ADJUSTMENT PERCENTAGE.—
8 For purposes of this subsection, the term ‘inflation
9 adjustment percentage’ means, with respect to any
10 calendar year, the cost-of-living adjustment which
11 would be determined under section 1(c)(2)(A) for
12 such calendar year if clause (ii) thereof were applied
13 by substituting ‘the C-CPI-U for the calendar year
14 preceding the calendar year referred to in clause (i)’
15 for ‘the normalized CPI for calendar year 2012’.

16 “(4) INCREASE FOR FIRST TAXABLE YEAR RE-
17 DUCED TO TAKE INTO ACCOUNT PLACED IN SERVICE
18 CONVENTION.—In the case of the taxable year in
19 which any property is placed in service, the increase
20 determined under paragraph (1) with respect to
21 such property shall be equal to—

22 “(A) in the case of any property to which
23 subsection (d)(3) applies, $\frac{1}{8}$ of the amount of
24 such increase determined without regard to this
25 paragraph, and

1 “(B) in the case of any other property, $\frac{1}{2}$
2 of the amount of such increase determined
3 without regard to this paragraph.

4 “(5) OVERALL DEPRECIATION ALLOWANCE NOT
5 TO EXCEED BASIS.—The deduction determined
6 under subsection (a) (after any increase determined
7 under this subsection) with respect to any property
8 for any taxable year shall not exceed the adjusted
9 basis of such property determined as of the begin-
10 ning of such taxable year.

11 “(6) CERTAIN PROPERTY EXCLUDED.—Para-
12 graph (1) shall not apply to any specified property
13 used outside the United States or to any property
14 described in subsection (d)(2).

15 “(7) ELECTION.—

16 “(A) IN GENERAL.—An election under
17 paragraph (1) for any taxable year shall be
18 made not later than the due date (including ex-
19 tensions) for the return of tax for such taxable
20 year. Such election, once made, shall be irrev-
21 ocable. Such election shall apply with respect to
22 all property placed in service during the taxable
23 for which made (and shall apply for subsequent
24 taxable years but only with respect to such
25 property).

1 “(B) TAXPAYER ENGAGED IN MORE THAN
2 ONE BUSINESS.—A taxpayer engaged in more
3 than one trade or business may make separate
4 elections under paragraph (1) with respect to
5 each such trade or business.”.

6 (d) APPLICATION OF MID-MONTH CONVENTION.—

7 (1) IN GENERAL.—Subparagraphs (A), (B) and
8 (C) of section 168(d)(2) are amended to read as fol-
9 lows:

10 “(A) real property,

11 “(B) water treatment and utility property,

12 and

13 “(C) any clearing and grading land im-
14 provements or tunnel bore,”.

15 (2) CONFORMING AMENDMENT.—Clause (i) of
16 section 168(d)(3)(B) is amended to read as follows:

17 “(i) any property described in para-
18 graph (2),”.

19 (e) DEFINITIONS.—Subsection (e) of section 168 is
20 amended to read as follows:

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

22 “(1) CLASS LIFE.—

23 “(A) IN GENERAL.—Except as provided in
24 this section, the term ‘class life’ means the class
25 life (if any) which would be applicable with re-

1 spect to any property as of January 1, 1986,
2 under subsection (m) of section 167 (deter-
3 mined without regard to paragraph (4) and as
4 if the taxpayer had made an election under
5 such subsection). The reference in this para-
6 graph to subsection (m) of section 167 shall be
7 treated as a reference to such subsection as in
8 effect on the day before the date of the enact-
9 ment of the Revenue Reconciliation Act of
10 1990.

11 “(B) SECRETARIAL AUTHORITY TO MODIFY
12 REV. PROC. 87-56.—

13 “(i) IN GENERAL.—The Secretary,
14 through the Office of Tax Analysis and in
15 consultation with the Bureau of Economic
16 Analysis of the Department of Commerce,
17 shall—

18 “(I) determine, and develop a
19 schedule of, the economic depreciation
20 of the major categories of depreciable
21 property (other than property with a
22 specified class life under subsection
23 (e)(2)) to approximate constant
24 straight-line depreciation, and

1 “(II) develop recommendations
2 regarding the proper economic depre-
3 ciation for property with a specified
4 class life under subsection (c)(2).

5 “(ii) REPORT.—Not later than De-
6 cember 31, 2017, the Secretary shall sub-
7 mit to the Committee on Ways and Means
8 of the House of Representatives and the
9 Committee on Finance of the Senate—

10 “(I) the schedule developed under
11 clause (i)(I), and

12 “(II) the recommendations devel-
13 oped under clause (i)(II).

14 The schedule developed under clause (i)(I)
15 shall take effect with respect to property
16 placed in service after the later of Decem-
17 ber 31, 2017, or the end of the first cal-
18 endar year ending after the calendar year
19 during which such schedule is submitted.

20 “(2) RESIDENTIAL RENTAL PROPERTY.—

21 “(A) IN GENERAL.—The term ‘residential
22 rental property’ means any building or struc-
23 ture if 80 percent or more of the gross rental
24 income from such building or structure for the

1 taxable year is rental income from dwelling
2 units.

3 “(B) DWELLING UNIT.—For purposes of
4 subparagraph (A)—

5 “(i) the term ‘dwelling unit’ means a
6 house or apartment used to provide living
7 accommodations in a building or structure,
8 but does not include a unit in a hotel,
9 motel, or other establishment more than
10 one-half of the units in which are used on
11 a transient basis, and

12 “(ii) if any portion of the building or
13 structure is occupied by the taxpayer, the
14 gross rental income from such building or
15 structure shall include the rental value of
16 the portion so occupied.

17 “(3) NONRESIDENTIAL REAL PROPERTY.—The
18 term ‘nonresidential real property’ means section
19 1250 property which is not—

20 “(A) residential rental property, or

21 “(B) property with a class life of less than
22 27.5 years.

23 “(4) WATER UTILITY PROPERTY.—The term
24 ‘water utility property’ means property—

1 “(A) which is an integral part of the gath-
2 ering, treatment, or commercial distribution of
3 water, and

4 “(B) any municipal sewer.

5 “(5) QUALIFIED RENT-TO-OWN PROPERTY.—

6 “(A) IN GENERAL.—The term ‘qualified
7 rent-to-own property’ means any property held
8 by a rent-to-own dealer for purposes of being
9 subject to a rent-to-own contract.

10 “(B) RENT-TO-OWN DEALER.—The term
11 ‘rent-to-own dealer’ means a person that, in the
12 ordinary course of business, regularly enters
13 into rent-to-own contracts with customers for
14 the use of consumer property, if a substantial
15 portion of those contracts terminate and the
16 property is returned to such person before the
17 receipt of all payments required to transfer
18 ownership of the property from such person to
19 the customer.

20 “(C) CONSUMER PROPERTY.—The term
21 ‘consumer property’ means tangible personal
22 property of a type generally used within the
23 home for personal use.

24 “(D) RENT-TO-OWN CONTRACT.—The
25 term ‘rent-to-own contract’ means any lease for

1 the use of consumer property between a rent-to-
2 own dealer and a customer who is an individual
3 which—

4 “(i) is titled ‘Rent-to-Own Agreement’
5 or ‘Lease Agreement with Ownership Op-
6 tion’, or uses other similar language,

7 “(ii) provides for level (or decreasing
8 where no payment is less than 40 percent
9 of the largest payment), regular periodic
10 payments (for a payment period which is a
11 week or month),

12 “(iii) provides that legal title to such
13 property remains with the rent-to-own
14 dealer until the customer makes all the
15 payments described in clause (ii) or early
16 purchase payments required under the con-
17 tract to acquire legal title to the item of
18 property,

19 “(iv) provides a beginning date and a
20 maximum period of time for which the con-
21 tract may be in effect that does not exceed
22 156 weeks or 36 months from such begin-
23 ning date (including renewals or options to
24 extend),

1 “(v) provides for payments within the
2 156-week or 36-month period that, in the
3 aggregate, generally exceed the normal re-
4 tail price of the consumer property plus in-
5 terest,
6 “(vi) provides for payments under the
7 contract that, in the aggregate, do not ex-
8 ceed \$10,000 per item of consumer prop-
9 erty,
10 “(vii) provides that the customer does
11 not have any legal obligation to make all
12 the payments referred to in clause (ii) set
13 forth under the contract, and that at the
14 end of each payment period the customer
15 may either continue to use the consumer
16 property by making the payment for the
17 next payment period or return such prop-
18 erty to the rent-to-own dealer in good
19 working order, in which case the customer
20 does not incur any further obligations
21 under the contract and is not entitled to a
22 return of any payments previously made
23 under the contract, and
24 “(viii) provides that the customer has
25 no right to sell, sublease, mortgage, pawn,

1 pledge, encumber, or otherwise dispose of
2 the consumer property until all the pay-
3 ments stated in the contract have been
4 made.

5 “(6) QUALIFIED TECHNOLOGICAL EQUIP-
6 MENT.—

7 “(A) IN GENERAL.—The term ‘qualified
8 technological equipment’ means—

9 “(i) any computer or peripheral equip-
10 ment,

11 “(ii) any high technology telephone
12 station equipment installed on the cus-
13 tomer’s premises, and

14 “(iii) any high technology medical
15 equipment.

16 “(B) COMPUTER OR PERIPHERAL EQUIP-
17 MENT DEFINED.—For purposes of this para-
18 graph—

19 “(i) IN GENERAL.—The term ‘com-
20 puter or peripheral equipment’ means—

21 “(I) any computer, and

22 “(II) any related peripheral
23 equipment.

1 “(ii) COMPUTER.—The term ‘com-
2 puter’ means a programmable electroni-
3 cally activated device which—

4 “(I) is capable of accepting infor-
5 mation, applying prescribed processes
6 to the information, and supplying the
7 results of these processes with or
8 without human intervention, and

9 “(II) consists of a central proc-
10 essing unit containing extensive stor-
11 age, logic, arithmetic, and control ca-
12 pabilities.

13 “(C) HIGH TECHNOLOGY MEDICAL EQUIP-
14 MENT.—For purposes of this paragraph, the
15 term ‘high technology medical equipment’
16 means any electronic, electromechanical, or
17 computer-based high technology equipment used
18 in the screening, monitoring, observation, diag-
19 nosis, or treatment of patients in a laboratory,
20 medical, or hospital environment.

21 “(7) NATURAL GAS GATHERING LINE.—The
22 term ‘natural gas gathering line’ means—

23 “(A) the pipe, equipment, and appur-
24 tenances determined to be a gathering line by

1 the Federal Energy Regulatory Commission,
2 and

3 “(B) the pipe, equipment, and appur-
4 tenances used to deliver natural gas from the
5 wellhead or a commonpoint to the point at
6 which such gas first reaches—

7 “(i) a gas processing plant,

8 “(ii) an interconnection with a trans-
9 mission pipeline for which a certificate as
10 an interstate transmission pipeline has
11 been issued by the Federal Energy Regu-
12 latory Commission,

13 “(iii) an interconnection with an
14 intrastate transmission pipeline, or

15 “(iv) a direct interconnection with a
16 local distribution company, a gas storage
17 facility, or an industrial consumer.

18 “(8) QUALIFIED SMART ELECTRIC METERS.—

19 “(A) IN GENERAL.—The term ‘qualified
20 smart electric meter’ means any smart electric
21 meter which—

22 “(i) is placed in service by a taxpayer
23 that is a supplier of electric energy or a
24 provider of electric energy services, and

1 “(ii) does not have a class life (deter-
2 mined without regard to subsection (c)) of
3 less than 10 years.

4 “(B) SMART ELECTRIC METER.—For pur-
5 poses of subparagraph (A), the term ‘smart
6 electric meter’ means any time-based meter and
7 related communication equipment which is ca-
8 pable of being used by the taxpayer as part of
9 a system that—

10 “(i) measures and records electricity
11 usage data on a time-differentiated basis
12 in at least 24 separate time segments per
13 day,

14 “(ii) provides for the exchange of in-
15 formation between supplier or provider and
16 the customer’s electric meter in support of
17 time-based rates or other forms of demand
18 response,

19 “(iii) provides data to such supplier or
20 provider so that the supplier or provider
21 can provide energy usage information to
22 customers electronically, and

23 “(iv) provides net metering.

24 “(9) QUALIFIED SMART ELECTRIC GRID SYS-
25 TEMS.—

1 “(A) IN GENERAL.—The term ‘qualified
2 smart electric grid system’ means any smart
3 grid property which—

4 “(i) is used as part of a system for
5 electric distribution grid communications,
6 monitoring, and management placed in
7 service by a taxpayer who is a supplier of
8 electric energy or a provider of electric en-
9 ergy services, and

10 “(ii) does not have a class life (deter-
11 mined without regard to subsection (c)) of
12 less than 10 years.

13 “(B) SMART GRID PROPERTY.—For the
14 purposes of subparagraph (A), the term ‘smart
15 grid property’ means electronics and related
16 equipment that is capable of—

17 “(i) sensing, collecting, and moni-
18 toring data of or from all portions of a
19 utility’s electric distribution grid,

20 “(ii) providing real-time, two-way
21 communications to monitor or manage
22 such grid, and

23 “(iii) providing real time analysis of
24 and event prediction based upon collected
25 data that can be used to improve electric

1 distribution system reliability, quality, and
2 performance.

3 “(10) SPECIFIED PROPERTY USED OUTSIDE
4 THE UNITED STATES.—

5 “(A) IN GENERAL.—The term ‘specified
6 property used outside the United States’
7 means—

8 “(i) any aircraft which is registered
9 by the Administrator of the Federal Avia-
10 tion Agency and which is operated to and
11 from the United States or is operated
12 under contract with the United States,

13 “(ii) rolling stock which is used within
14 and without the United States and which
15 is—

16 “(I) of a rail carrier subject to
17 part A of subtitle IV of title 49, or

18 “(II) of a United States person
19 (other than a corporation described in
20 subclause (I)) but only if the rolling
21 stock is not leased to one or more for-
22 eign persons for periods aggregating
23 more than 12 months in any 24-
24 month period,

1 “(iii) any vessel documented under the
2 laws of the United States which is oper-
3 ated in the foreign or domestic commerce
4 of the United States,

5 “(iv) any motor vehicle of a United
6 States person (as defined in section
7 7701(a)(30)) which is operated to and
8 from the United States,

9 “(v) any container of a United States
10 person which is used in the transportation
11 of property to and from the United States,

12 “(vi) any property (other than a vessel
13 or an aircraft) of a United States person
14 which is used for the purpose of exploring
15 for, developing, removing, or transporting
16 resources from the outer Continental Shelf
17 (within the meaning of section 2 of the
18 Outer Continental Shelf Lands Act, as
19 amended and supplemented; (43 U.S.C.
20 1331)),

21 “(vii) any property which is owned by
22 a domestic corporation or by a United
23 States citizen (other than a citizen entitled
24 to the benefits of section 931 or 933) and
25 which is used predominantly in a posses-

1 sion of the United States by such a cor-
2 poration, or such a citizen, or by a cor-
3 poration created or organized in, or under
4 the law of, a possession of the United
5 States,

6 “(viii) any communications satellite
7 (as defined in section 103(3) of the Com-
8 munications Satellite Act of 1962, 47
9 U.S.C. 702(3)), or any interest therein, of
10 a United States person,

11 “(ix) any cable, or any interest there-
12 in, of a domestic corporation engaged in
13 furnishing telephone service to which sec-
14 tion 168(e)(10)(C) applies (or of a wholly
15 owned domestic subsidiary of such a cor-
16 poration), if such cable is part of a sub-
17 marine cable system which constitutes part
18 of a communication link exclusively be-
19 tween the United States and one or more
20 foreign countries,

21 “(x) any property (other than a vessel
22 or an aircraft) of a United States person
23 which is used in international or territorial
24 waters within the northern portion of the
25 Western Hemisphere for the purpose of ex-

1 ploring for, developing, removing, or trans-
2 porting resources from ocean waters or de-
3 posits under such waters,

4 “(xi) any property described in section
5 48(l)(3)(A)(ix) (as in effect on the day be-
6 fore the date of the enactment of the Rev-
7 enue Reconciliation Act of 1990) which is
8 owned by a United States person and
9 which is used in international or territorial
10 waters to generate energy for use in the
11 United States, and

12 “(xii) any satellite (not described in
13 clause (viii)) or other spacecraft (or any in-
14 terest therein) held by a United States per-
15 son if such satellite or other spacecraft was
16 launched from within the United States.

17 “(B) NORTHERN PORTION OF THE WEST-
18 ERN HEMISPHERE.—For purposes of subpara-
19 graph (A)(x), the term ‘northern portion of the
20 Western Hemisphere’ means the area lying west
21 of the 30th meridian west of Greenwich, east of
22 the international dateline, and north of the
23 Equator, but not including any foreign country
24 which is a country of South America.”.

25 (f) CONFORMING AMENDMENTS.—

1 (1) AMENDMENTS TO SECTION 168.—

2 (A) Section 168 is amended by striking
3 subsections (g), (j), (k), (l), (m), and (n), and
4 by redesignating subsections (h) and (i) as sub-
5 sections (g) and (h), respectively.

6 (B) Section 168(h), as redesignated by
7 subparagraph (A), is amended—

8 (i) by striking paragraphs (1), (2),
9 (11), (12), (13), (14), (15), (16), (17),
10 (18), and (19) and by redesignating para-
11 graphs (3) through (10) as paragraphs (1)
12 through (8), respectively, and

13 (ii) by striking “DEFINITIONS AND”
14 in the heading thereof.

15 (C) Section 168(h)(8), as redesignated by
16 subparagraphs (A) and (B), is moved to the
17 end of section 168(e) (as amended by sub-
18 section (e)) and redesignated as paragraph
19 (11).

20 (2) OTHER CONFORMING AMENDMENTS.—

21 (A) Section 50(b)(4) is amended—

22 (i) in subparagraph (A)(ii)—

23 (I) by striking “section
24 168(h)(2)(C)” and inserting “section
25 168(g)(2)(C)”;

- 1 (II) by striking “section
2 168(h)(2)(A)(iii)” and inserting “sec-
3 tion 168(g)(2)(A)(iii)”, and
- 4 (III) by striking “section
5 168(h)(2)(B)” and inserting “section
6 168(g)(2)(B)”,
- 7 (ii) in subparagraph (B), by striking
8 “section 168(i)(3)” and inserting “section
9 168(h)(1)”, and
- 10 (iii) in subparagraphs (D) and (E), by
11 striking “section 168(h)” each place it ap-
12 pears and inserting “section 168(g)”.
- 13 (B)(i) Section 50(b)(1)(B) is amended by
14 striking “any property described in section
15 168(g)(4)” and inserting “any specified prop-
16 erty used outside the United States (as defined
17 in section 168(e)(10))”.
- 18 (ii) Section 865(c)(3)(B) is amended by
19 striking “property of a kind described in section
20 168(g)(4)” and inserting “specified property
21 used outside the United States (as defined in
22 section 168(e)(10))”.
- 23 (C) Section 179(e)(2) is amended by in-
24 serting “as in effect before its repeal by the

1 Tax Reform Act of 2014” after “section
2 168(n)(2)”.

3 (D) Section 179(f), as amended by section
4 3111, is amended—

5 (i) by striking paragraph (2), and

6 (ii) by inserting after paragraph (1)

7 the following new paragraphs:

8 “(2) QUALIFIED REAL PROPERTY.—For pur-
9 poses of this subsection, the term ‘qualified real
10 property’ means qualified leasehold improvement
11 property, qualified restaurant property, and qualified
12 retail improvement property.

13 “(3) QUALIFIED LEASEHOLD IMPROVEMENT
14 PROPERTY.—For purposes of this subsection—

15 “(A) IN GENERAL.—The term ‘qualified
16 leasehold improvement property’ means any im-
17 provement to an interior portion of a building
18 which is nonresidential real property if—

19 “(i) such improvement is made under
20 or pursuant to a lease (as defined in sec-
21 tion 168(g)(7))—

22 “(I) by the lessee (or any subles-
23 see) of such portion, or

24 “(II) by the lessor of such por-
25 tion,

1 “(ii) such portion is to be occupied ex-
2 clusively by the lessee (or any sublessee) of
3 such portion, and

4 “(iii) such improvement is placed in
5 service more than 3 years after the date
6 the building was first placed in service.

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

11 “(i) the enlargement of the building,

12 “(ii) any elevator or escalator,

13 “(iii) any structural component bene-
14 fitting a common area, and

15 “(iv) the internal structural frame-
16 work of the building.

17 “(C) DEFINITIONS AND SPECIAL RULES.—
18 For purposes of this paragraph—

19 “(i) COMMITMENT TO LEASE TREAT-
20 ED AS LEASE.—A commitment to enter
21 into a lease shall be treated as a lease, and
22 the parties to such commitment shall be
23 treated as lessor and lessee, respectively.

24 “(ii) RELATED PERSONS.—A lease be-
25 tween related persons shall not be consid-

1 ered a lease. For purposes of the preceding
2 sentence, the term ‘related persons’
3 means—

4 “(I) members of an affiliated
5 group (as defined in section 1504),
6 and

7 “(II) persons having a relation-
8 ship described in subsection (b) of
9 section 267; except that, for purposes
10 of this subclause, the phrase ‘80 per-
11 cent or more’ shall be substituted for
12 the phrase ‘more than 50 percent’
13 each place it appears in such sub-
14 section.

15 “(D) IMPROVEMENTS MADE BY LESSOR.—
16 In the case of an improvement made by the per-
17 son who was the lessor of such improvement
18 when such improvement was placed in service,
19 such improvement shall be qualified leasehold
20 improvement property (if at all) only so long as
21 such improvement is held by such person.

22 “(E) EXCEPTION FOR CHANGES IN FORM
23 OF BUSINESS.—Property shall not cease to be
24 qualified leasehold improvement property by
25 reason of—

1 “(i) death,
2 “(ii) a transaction to which section
3 381(a) applies,
4 “(iii) a mere change in the form of
5 conducting the trade or business so long as
6 the property is retained in such trade or
7 business as qualified leasehold improve-
8 ment property and the taxpayer retains a
9 substantial interest in such trade or busi-
10 ness,
11 “(iv) the acquisition of such property
12 in an exchange described in section 1031
13 (as in effect before its repeal by the Tax
14 Reform Act of 2014), 1033, or 1038 to the
15 extent that the basis of such property in-
16 cludes an amount representing the ad-
17 justed basis of other property owned by the
18 taxpayer or a related person, or
19 “(v) the acquisition of such property
20 by the taxpayer in a transaction described
21 in section 332, 351, 361, 721, or 731 (or
22 the acquisition of such property by the tax-
23 payer from the transferee or acquiring cor-
24 poration in a transaction described in such
25 section), to the extent that the basis of the

1 property in the hands of the taxpayer is
2 determined by reference to its basis in the
3 hands of the transferor or distributor.

4 “(4) QUALIFIED RESTAURANT PROPERTY.—For
5 purposes of this subsection, the term ‘qualified res-
6 taurant property’ means any section 1250 property
7 which is—

8 “(A) a building, or

9 “(B) an improvement to a building,
10 if more than 50 percent of the building’s square
11 footage is devoted to preparation of, and seating for
12 on-premises consumption of, prepared meals.

13 “(5) QUALIFIED RETAIL IMPROVEMENT PROP-
14 erty.—

15 “(A) IN GENERAL.—The term ‘qualified
16 retail improvement property’ means any im-
17 provement to an interior portion of a building
18 which is nonresidential real property if—

19 “(i) such portion is open to the gen-
20 eral public and is used in the retail trade
21 or business of selling tangible personal
22 property to the general public, and

23 “(ii) such improvement is placed in
24 service more than 3 years after the date
25 the building was first placed in service.

1 “(B) IMPROVEMENTS MADE BY OWNER.—
2 In the case of an improvement made by the
3 owner of such improvement, such improvement
4 shall be qualified retail improvement property
5 (if at all) only so long as such improvement is
6 held by such owner. Rules similar to the rules
7 under paragraph (3)(E) shall apply for pur-
8 poses of the preceding sentence.

9 “(C) CERTAIN IMPROVEMENTS NOT IN-
10 CLUDED.—Such term shall not include any im-
11 provement for which the expenditure is attrib-
12 utable to—

13 “(i) the enlargement of the building,
14 “(ii) any elevator or escalator,
15 “(iii) any structural component bene-
16 fitting a common area, or
17 “(iv) the internal structural frame-
18 work of the building.”.

19 (E) Section 280F(b) is amended—
20 (i) by striking paragraph (1) and by
21 redesignating paragraphs (2) and (3) as
22 paragraphs (1) and (2), respectively, and
23 (ii) by striking “, and the depreciation
24 deduction” and all that follows through

1 “alternative depreciation system)” in para-
2 graph (1) (as redesignated by clause (i)).

3 (F) Section 280F(d)(4)(A)(iv) is amended
4 by striking “section 168(i)(2)(B)” and inserting
5 “section 168(e)(6)(B)”.

6 (G) Section 312(k)(3) is amended by strik-
7 ing “EXCEPTION FOR TANGIBLE PROPERTY”
8 and all that follows through “For purposes of
9 computing the earnings and profits” and insert-
10 ing “EXCEPTION FOR CERTAIN TANGIBLE
11 PROPERTY.—For purposes of computing the
12 earnings and profits”.

13 (H) Section 460(e) is amended by striking
14 paragraph (6).

15 (I) Section 460(d)(2) is amended by strik-
16 ing “section 168(h)(2)(D)” and inserting “sec-
17 tion 168(g)(2)(D)”.

18 (J) Section 460(e)(6) is amended by strik-
19 ing “section 168(e)(2)(A)(ii)” each place it ap-
20 pears and inserting “section 168(e)(2)(B)”.

21 (K)(i) Subparagraphs (A) and (C) of sec-
22 tion 470(c)(2) are each amended by striking
23 “section 168(h)” and inserting “section
24 168(g).”

1 (ii) Section 470(c)(2)(B) is amended by
2 striking “section 168(h)(6)” and inserting “sec-
3 tion 168(g)(6)”.

4 (L) Section 512(b)(17)(B)(ii)(I) is amend-
5 ed by striking “section 168(h)(4)(B)” and in-
6 serting “section 168(g)(4)(B)”.

7 (M) Section 514(c)(9)(B)(vi)(II) is amend-
8 ed by striking “section 168(h)(6)” and insert-
9 ing “section 168(g)(6)”.

10 (N) Section 527(i)(3)(D) is amended by
11 striking “section 168(h)(4)” and inserting “sec-
12 tion 168(g)(4)”.

13 (O) The second sentence of section
14 860E(e)(5) is amended by striking “section
15 168(h)(2)(D)” and inserting “section
16 168(g)(2)(D)”.

17 (P) Section 1245(a) is amended—

18 (i) in paragraph (3)(D), by striking
19 “section 168(i)(13)” and inserting “para-
20 graph (4)”, and

21 (ii) by adding at the end the following
22 new paragraph:

23 “(4) SINGLE PURPOSE AGRICULTURAL OR HOR-
24 TICULTURAL STRUCTURE.—For purposes of this
25 subsection—

1 “(A) IN GENERAL.—The term ‘single pur-
2 pose agricultural or horticultural structure’
3 means—
4 “(i) a single purpose livestock struc-
5 ture, and
6 “(ii) a single purpose horticultural
7 structure.
8 “(B) DEFINITIONS.—For purposes of this
9 paragraph—
10 “(i) SINGLE PURPOSE LIVESTOCK
11 STRUCTURE.—The term ‘single purpose
12 livestock structure’ means any enclosure or
13 structure specifically designed, constructed,
14 and used—
15 “(I) for housing, raising, and
16 feeding a particular type of livestock
17 and their produce, and
18 “(II) for housing the equipment
19 (including any replacements) nec-
20 essary for the housing, raising, and
21 feeding referred to in subclause (I).
22 “(ii) SINGLE PURPOSE HORTI-
23 CULTURAL STRUCTURE.—The term ‘single
24 purpose horticultural structure’ means—

1 “(I) a greenhouse specifically de-
2 signed, constructed, and used for the
3 commercial production of plants, and

4 “(II) a structure specifically de-
5 signed, constructed, and used for the
6 commercial production of mushrooms.

7 “(iii) STRUCTURES WHICH INCLUDE
8 WORK SPACE.—An enclosure or structure
9 which provides work space shall be treated
10 as a single purpose agricultural or horti-
11 cultural structure only if such work space
12 is solely for—

13 “(I) the stocking, caring for, or
14 collecting of livestock or plants (as the
15 case may be) or their produce,

16 “(II) the maintenance of the en-
17 closure or structure, and

18 “(III) the maintenance or re-
19 placement of the equipment or stock
20 enclosed or housed therein.

21 “(iv) LIVESTOCK.—The term “live-
22 stock” includes poultry.”.

23 (Q) Section 1245(a)(3)(F) is amended to
24 read as follows:

1 “(F) any clearing and grading land im-
2 provements or tunnel bore (within the meaning
3 of section 168(e)(2)(P)).”.

4 (R) Section 6050V(d)(3) is amended by
5 striking “section 168(h)(2)(A)(iv)” and insert-
6 ing “section 168(g)(2)(A)(iv)”.

7 (S) Section 6211(b)(4)(A) is amended by
8 striking “168(k)(4),”.

9 (T) The second sentence of section
10 7701(e)(4)(A) is amended by striking “section
11 168(h)” and inserting “section 168(g)”.

12 (U) Section 7871(f)(3) is amended—
13 (i) by striking “(as defined in section
14 168(j)(6))” in subparagraph (B)(ii), and
15 (ii) by adding at the end the following
16 new subparagraph:

17 “(D) INDIAN RESERVATION.—For pur-
18 poses of this paragraph, the term ‘Indian res-
19 ervation’ means a reservation, as defined in—

20 “(i) section 3(d) of the Indian Financ-
21 ing Act of 1974 (25 U.S.C. 1452(d)), or

22 “(ii) section 4(10) of the Indian Child
23 Welfare Act of 1978 (25 U.S.C.
24 1903(10)).

1 For purposes of the preceding sentence, such
2 section 3(d) shall be applied by treating the
3 term ‘former Indian reservations in Oklahoma’
4 as including only lands which are within the ju-
5 risdictional area of an Oklahoma Indian tribe
6 (as determined by the Secretary of the Interior)
7 and are recognized by such Secretary as eligible
8 for trust land status under 25 CFR Part 151
9 (as in effect on August 5, 1997).”.

10 (g) NORMALIZATION REQUIREMENTS.—

11 (1) IN GENERAL.—A normalization method of
12 accounting shall not be treated as being used with
13 respect to any public utility property for purposes of
14 section 167 or 168 of the Internal Revenue Code of
15 1986 if the taxpayer, in computing its cost of service
16 for ratemaking purposes and reflecting operating re-
17 sults in its regulated books of account, reduces the
18 excess tax reserve more rapidly or to a greater ex-
19 tent than such reserve would be reduced under the
20 average rate assumption method.

21 (2) ALTERNATIVE METHOD FOR CERTAIN TAX-
22 PAYERS.—If, as of the first day of the taxable year
23 that includes the date of enactment of this Act—

24 (A) the taxpayer was required by a regu-
25 latory agency to compute depreciation for public

1 utility property on the basis of an average life
2 or composite rate method, and

3 (B) the taxpayer's books and underlying
4 records did not contain the vintage account
5 data necessary to apply the average rate as-
6 sumption method,

7 the taxpayer will be treated as using a normalization
8 method of accounting if, with respect to such juris-
9 diction, the taxpayer uses the alternative method for
10 public utility property that is subject to the regu-
11 latory authority of that jurisdiction.

12 (3) DEFINITIONS.—For purposes of this sub-
13 section—

14 (A) EXCESS TAX RESERVE.—The term
15 “excess tax reserve” means the excess of—

16 (i) the reserve for deferred taxes (as
17 described in section 168(i)(9)(A)(ii) of the
18 Internal Revenue Code of 1986 as in effect
19 on the day before the date of the enact-
20 ment of this Act), over

21 (ii) the amount which would be the
22 balance in such reserve if the amount of
23 such reserve were determined by assuming
24 that the corporate rate reductions provided

1 in this Act were in effect for all prior peri-
2 ods.

3 (B) AVERAGE RATE ASSUMPTION METH-
4 OD.—The average rate assumption method is
5 the method under which the excess in the re-
6 serve for deferred taxes is reduced over the re-
7 maining lives of the property as used in its reg-
8 ulated books of account which gave rise to the
9 reserve for deferred taxes. Under such method,
10 if timing differences for the property reverse,
11 the amount of the adjustment to the reserve for
12 the deferred taxes is calculated by multi-
13 plying—

14 (i) the ratio of the aggregate deferred
15 taxes for the property to the aggregate
16 timing differences for the property as of
17 the beginning of the period in question, by

18 (ii) the amount of the timing dif-
19 ferences which reverse during such period.

20 (C) ALTERNATIVE METHOD.—The “alter-
21 native method” is the method in which the tax-
22 payer—

23 (i) computes the excess tax reserve on
24 all public utility property included in the
25 plant account on the basis of the weighted

1 average life or composite rate used to com-
2 pute depreciation for regulatory purposes,
3 and

4 (ii) reduces the excess tax reserve rat-
5 ably over the remaining regulatory life of
6 the property.

7 (4) TAX INCREASED FOR NORMALIZATION VIO-
8 LATION.— If, for any taxable year ending after the
9 date of the enactment of this Act, the taxpayer does
10 not use a normalization method of accounting, the
11 taxpayer's tax for the taxable year shall be increased
12 by the amount by which it reduces its excess tax re-
13 serve more rapidly than permitted under a normal-
14 ization method of accounting.

15 (h) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to property placed in service after
17 December 31, 2016.

18 **SEC. 3105. REPEAL OF AMORTIZATION OF POLLUTION CON-**
19 **TROL FACILITIES.**

20 (a) IN GENERAL.—Part VI of subchapter B of chap-
21 ter 1 is amended by striking section 169 (and by striking
22 the item relating to such section in the table of sections
23 for such part).

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 642(f) is amended by striking “the
2 deductions for amortization provided by sections 169
3 and 197” and inserting “the deduction for amortiza-
4 tion provided by section 197”.

5 (2) Section 1250(b)(3) is amended by inserting
6 “(as in effect before its repeal by the Tax Reform
7 Act of 2014)” after “169”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to facilities placed in service after
10 December 31, 2014.

11 **SEC. 3106. NET OPERATING LOSS DEDUCTION.**

12 (a) LIMITATION ON NET OPERATING LOSSES OF
13 CORPORATIONS.—

14 (1) IN GENERAL.—Section 172(a) is amended
15 to read as follows:

16 “(a) DEDUCTION ALLOWED.—

17 “(1) IN GENERAL.—There shall be allowed as a
18 deduction for the taxable year an amount equal to
19 the aggregate of—

20 “(A) the net operating loss carryovers to
21 such year, plus

22 “(B) the net operating loss carrybacks to
23 such year.

24 “(2) LIMITATION IN CASE OF CORPORATIONS.—

25 In the case of a corporation—

1 “(A) the deduction allowed under para-
2 graph (1) for the taxable year shall not exceed
3 90 percent of the taxable income for such year
4 computed without regard to the deduction al-
5 lowable under this section, and

6 “(B) appropriate adjustments in the appli-
7 cation of subsection (b)(2) shall be made to
8 take into account the limitation of subpara-
9 graph (A).

10 “(3) NET OPERATING LOSS DEDUCTION DE-
11 FINED.—For purposes of this subtitle, the term ‘net
12 operating loss deduction’ means the deduction al-
13 lowed by this subsection.”.

14 (2) COORDINATION WITH LIMITATION ON DE-
15 DUCTION FOR CHARITABLE CONTRIBUTIONS.—

16 (A) IN GENERAL.—Section 170(b)(2)(C) is
17 amended by redesignating clauses (iv) and (v)
18 as clauses (v) and (vi), respectively, and by in-
19 serting after clause (iii) the following new
20 clause:

21 “(iv) the limitation imposed under
22 section 172(a)(2)(A),”.

23 (B) LIFE INSURANCE COMPANIES.—Sec-
24 tion 805(b)(2)(A) is amended by redesignating
25 clauses (ii) through (v) as clauses (iii) through

1 (vi), respectively, and by inserting after clause
2 (i) the following new clause:

3 “(ii) the limitation imposed under sec-
4 tion 172(a)(2)(A).”

5 (b) REPEAL OF SPECIAL CARRYBACK PROVISIONS.—

6 (1) IN GENERAL.—Section 172(b)(1) is amend-
7 ed by striking subparagraphs (C), (D), (E), (G),
8 (H), (I), and (J) and by redesignating subparagraph
9 (F) as subparagraph (C).

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 172(b)(1)(C), as redesignated
12 by paragraph (1), is amended—

13 (i) in clause (ii), by striking the last
14 sentence, and

15 (ii) in clause (iv), by striking “in a
16 manner similar to the manner in which a
17 specified liability loss is treated” and in-
18 serting “as a separate net operating loss
19 for such taxable year to be taken into ac-
20 count after the remaining portion of the
21 net operating loss for such taxable year”.

22 (B) Section 172 is amended by striking
23 subsections (f), (g), (h), (i), and (j) and by re-
24 designating subsection (k) as subsection (f).

25 (c) EFFECTIVE DATES.—

1 (1) LIMITATION ON NOLS OF CORPORATIONS.—

2 The amendments made by subsection (a) shall apply
3 to—

4 (A) taxable years beginning after Decem-
5 ber 31, 2014, and

6 (B) to carrybacks of losses arising in tax-
7 able years beginning after December 31, 2014,
8 to taxable years beginning on or before such
9 date.

10 (2) REPEAL OF SPECIAL CARRYBACKS.—

11 (A) IN GENERAL.—Except as otherwise
12 provided in this paragraph, the amendments
13 made by subsection (b) shall apply to losses
14 arising in taxable years beginning after Decem-
15 ber 31, 2014.

16 (B) EXPIRED PROVISIONS.—So much of
17 the amendments made by subsection (b) as re-
18 late to striking subparagraphs (D), (H), (I),
19 and (J) of section 172(b)(1) of the Internal
20 Revenue Code of 1986 shall take effect on the
21 date of the enactment of this Act.

22 **SEC. 3107. CIRCULATION EXPENDITURES.**

23 (a) IN GENERAL.—Section 173 is amended to read
24 as follows:

1 **“SEC. 173. CIRCULATION EXPENDITURES.**

2 “(a) IN GENERAL.—In the case of a taxpayer’s speci-
3 fied circulation expenditures—

4 “(1) except as provided in paragraph (2), no
5 deduction shall be allowed for such expenditures,
6 and

7 “(2) the taxpayer shall—

8 “(A) charge such expenditures to capital
9 account, and

10 “(B) be allowed an amortization deduction
11 of such expenditures ratably over the 36-month
12 period beginning with the midpoint of the
13 month in which such expenditures are paid or
14 incurred.

15 “(b) SPECIFIED CIRCULATION EXPENDITURES.—For
16 purposes of this section, the term ‘specified circulation ex-
17 penditures’ means all expenditures (other than expendi-
18 tures for the purchase of land or depreciable property or
19 for the acquisition of circulation through the purchase of
20 any part of the business of another publisher of a news-
21 paper, magazine, or other periodical) to establish, main-
22 tain, or increase the circulation of a newspaper, magazine,
23 or other periodical.

24 “(c) TREATMENT UPON ABANDONMENT.—If any
25 property with respect to which specified circulation ex-
26 penditures are paid or incurred is disposed, retired, or

1 abandoned during the period during which such expendi-
 2 tures are allowed as an amortization deduction under this
 3 section, no deduction shall be allowed with respect to such
 4 expenditures on account of such disposition, retirement,
 5 or abandonment and such amortization deduction shall
 6 continue with respect to such expenditures.

7 “(d) PHASE-IN FOR TAXABLE YEARS BEGINNING
 8 BEFORE 2019.—

9 “(1) IN GENERAL.—In the case of specified cir-
 10 culation expenditures paid or incurred in taxable
 11 years beginning before 2019—

12 “(A) notwithstanding subsection (a), the
 13 applicable percentage of such expenditures shall
 14 be allowed as a deduction for the taxable year
 15 in which paid or incurred, and

16 “(B) subsection (a) shall apply to the re-
 17 mainder of such expenditures.

18 “(2) APPLICABLE PERCENTAGE.—For purposes
 19 of paragraph (1), the applicable percentage shall be
 20 determined in accordance with the following table:

“In the case of taxable years be- ginning in:	The applicable percentage is:
2016	75%
2017	50%
2018	25%

21 “(3) ELECTION OUT OF PHASE-IN.—The tax-
 22 payer may elect, at such time and in such form and
 23 manner as the Secretary shall prescribe, for para-

1 graph (1) not to apply for all taxable years begin-
2 ning before 2019. Such election, once made, shall be
3 irrevocable.”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to amounts paid or incurred in tax-
6 able years beginning after December 31, 2015.

7 **SEC. 3108. AMORTIZATION OF RESEARCH AND EXPERI-**
8 **MENTAL EXPENDITURES.**

9 (a) IN GENERAL.—Section 174 is amended to read
10 as follows:

11 **“SEC. 174. AMORTIZATION OF RESEARCH AND EXPERI-**
12 **MENTAL EXPENDITURES.**

13 “(a) IN GENERAL.—In the case of a taxpayer’s speci-
14 fied research or experimental expenditures for any taxable
15 year—

16 “(1) except as provided in paragraph (2), no
17 deduction shall be allowed for such expenditures,
18 and

19 “(2) the taxpayer shall—

20 “(A) charge such expenditures to capital
21 account, and

22 “(B) be allowed an amortization deduction
23 of such expenditures ratably over the 5-year pe-
24 riod (15-year period in the case of any specified
25 research or experimental expenditures which are

1 attributable to foreign research (within the
2 meaning of section 41(d)(4)(F)) beginning
3 with the midpoint of the taxable year in which
4 such expenditures are paid or incurred.

5 “(b) SPECIFIED RESEARCH OR EXPERIMENTAL EX-
6 PENDITURES.—For purposes of this section, the term
7 ‘specified research or experimental expenditures’ means,
8 with respect to any taxable year, research or experimental
9 expenditures which are paid or incurred by the taxpayer
10 during such taxable year in connection with the taxpayer’s
11 trade or business.

12 “(c) SPECIAL RULES.—

13 “(1) LAND AND OTHER PROPERTY.—This sec-
14 tion shall not apply to any expenditure for the acqui-
15 sition or improvement of land, or for the acquisition
16 or improvement of property to be used in connection
17 with the research or experimentation and of a char-
18 acter which is subject to the allowance under section
19 167 (relating to allowance for depreciation, etc.) or
20 section 611 (relating to allowance for depletion); but
21 for purposes of this section allowances under section
22 167, and allowances under section 611, shall be con-
23 sidered as expenditures.

24 “(2) EXPLORATION EXPENDITURES.—This sec-
25 tion shall not apply to any expenditure paid or in-

1 curred for the purpose of ascertaining the existence,
2 location, extent, or quality of any deposit of ore or
3 other mineral (including oil and gas).

4 “(3) SOFTWARE DEVELOPMENT.—For purposes
5 of this section, any amount paid or incurred in con-
6 nection with the development of any software shall
7 be treated as a research or experimental expendi-
8 ture.

9 “(d) TREATMENT UPON DISPOSITION, RETIREMENT,
10 OR ABANDONMENT.—If any property with respect to
11 which specified research or experimental expenditures are
12 paid or incurred is disposed, retired, or abandoned during
13 the period during which such expenditures are allowed as
14 an amortization deduction under this section, no deduction
15 shall be allowed with respect to such expenditures on ac-
16 count of such disposition, retirement, or abandonment and
17 such amortization deduction shall continue with respect to
18 such expenditures.

19 “(e) SPECIAL RULES FOR EXPENDITURES FOR DO-
20 MESTIC RESEARCH DURING TAXABLE YEARS BEGINNING
21 BEFORE 2021.—

22 “(1) IN GENERAL.—In the case of domestic re-
23 search or experimental expenditures paid or incurred
24 during any taxable year beginning before 2021—

1 “(A) notwithstanding subsection (a), the
 2 applicable percentage of such expenditures shall
 3 be allowed as a deduction in the taxable year in
 4 which paid or incurred, and

5 “(B) subsection (a) shall apply to the re-
 6 mainder of such expenditures by substituting
 7 the applicable period for ‘the 5-year period’.

8 “(2) DOMESTIC RESEARCH OR EXPERIMENTAL
 9 EXPENDITURES.—For purposes of this subsection,
 10 the term ‘domestic research or experimental expendi-
 11 tures’ means any expenditures—

12 “(A) to which subsection (a) applies (de-
 13 termined without regard to this subsection),
 14 and

15 “(B) which are not attributable to foreign
 16 research (within the meaning of section
 17 41(d)(4)(F)).

18 “(3) APPLICABLE PERCENTAGE.—For purposes
 19 of this subsection, the applicable percentage shall be
 20 determined in accordance with the following table:

“In the case of taxable years be-	The applicable percentage	
ginning in:	is:	
2015	60%	
2016 or 2017	40%	
2018, 2019, or 2020	20%	

21 “(4) APPLICABLE PERIOD.—For purposes of
 22 this subsection, the applicable period shall be deter-
 23 mined in accordance with the following table:

“In the case of taxable years be- ginning in:	The applicable period is the:
2015	2-year period
2016 or 2017	3-year period
2018, 2019, or 2020	4-year period

1 “(5) ELECTION OUT OF PHASE-IN.—The tax-
2 payer may elect, at such time and in such form and
3 manner as the Secretary shall prescribe, for para-
4 graph (1) not to apply to all domestic research or
5 experimental expenditures of the taxpayer for any
6 taxable years beginning before 2021. Such election,
7 once made, shall be irrevocable.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for part VI of subchapter B of chapter 1 is amended by
10 striking the item relating to section 174 and inserting the
11 following new item:

“Sec. 174. Amortization of research and experimental expenditures.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to amounts paid or incurred in tax-
14 able years beginning after December 31, 2014.

15 **SEC. 3109. REPEAL OF DEDUCTIONS FOR SOIL AND WATER**
16 **CONSERVATION EXPENDITURES AND ENDAN-**
17 **GERED SPECIES RECOVERY EXPENDITURES.**

18 (a) IN GENERAL.—Part VI of subchapter B of chap-
19 ter 1 is amended by striking section 175 (and by striking
20 the item relating to such section in the table of sections
21 for such part).

1 (b) CONFORMING AMENDMENTS.—Paragraphs
2 (1)(A) and (2) of section 1252(a) are each amended by
3 striking “relating to soil and water conservation expendi-
4 tures” and inserting “as in effect before its repeal by the
5 Tax Reform Act of 2014”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply to amounts paid or incurred
9 after December 31, 2014.

10 (2) ASSESSMENTS TREATED AS PAID OR IN-
11 CURRED.—In the case of any amount paid or in-
12 curred before December 31, 2014, and treated as
13 paid or incurred in any succeeding taxable year by
14 reason of section 175(f) of the Internal Revenue
15 Code of 1986 (as in effect on the day before the
16 date of the enactment of this Act), paragraph (1)
17 shall not apply.

18 **SEC. 3110. AMORTIZATION OF CERTAIN ADVERTISING EX-**
19 **PENSES.**

20 (a) IN GENERAL.—Part VI of subchapter B of chap-
21 ter 1 is amended by inserting after section 176 the fol-
22 lowing new section:

1 **“SEC. 177. AMORTIZATION OF CERTAIN ADVERTISING EX-**
2 **PENSES.**

3 “(a) IN GENERAL.—In the case of a taxpayer’s amor-
4 tizable advertising expenses for any taxable year—

5 “(1) except as provided in paragraph (2), no
6 deduction shall be allowed for such expenses, and

7 “(2) the taxpayer shall—

8 “(A) charge such expenses to capital ac-
9 count, and

10 “(B) be allowed an amortization deduction
11 of such expenses ratably over the 10-year period
12 beginning with the midpoint of the taxable year
13 in which such expenses are paid or incurred.

14 “(b) EXEMPTION.—

15 “(1) IN GENERAL.—So much of the taxpayer’s
16 otherwise deductible advertising expenses for any
17 taxable year as do not exceed \$1,000,000 shall not
18 be taken into account in determining such taxpayer’s
19 amortizable advertising expenses for such taxable
20 year.

21 “(2) PHASEOUT OF EXEMPTION.—In the case
22 of a taxpayer whose otherwise deductible advertising
23 expenses for any taxable year exceed \$1,500,000,
24 the dollar amount in effect under paragraph (1) with
25 respect to such taxpayer for such taxable year shall

1 be reduced (but not below zero) by twice such ex-
 2 cess.

3 “(3) AGGREGATION; SHORT TAXABLE YEARS.—
 4 For purposes of this subsection, rules similar to the
 5 rules of paragraphs (2) and (3)(B) of section 448(b)
 6 shall apply.

7 “(c) AMORTIZABLE ADVERTISING EXPENSES.—
 8 “(1) IN GENERAL.—For purposes of this sec-
 9 tion, the term ‘amortizable advertising expenses’
 10 means, with respect to any taxpayer for any taxable
 11 year, the applicable percentage of the taxpayer’s oth-
 12 erwise deductible advertising expenses for such tax-
 13 able year.

14 “(2) APPLICABLE PERCENTAGE.—For purposes
 15 of this subsection, the term ‘applicable percentage’
 16 means (with respect to the taxpayer’s otherwise de-
 17 ductible advertising expenses for any taxable year)
 18 the percentage determined in accordance with the
 19 following table:

“For taxable years beginning in:	The applicable percentage is:
2015	20 percent
2016	30 percent
2017	40 percent
2018 or thereafter	50 percent.

20 “(3) ELECTION OUT OF PHASE-IN.—The tax-
 21 payer may elect, at such time and in such form and

1 manner as the Secretary shall prescribe, to treat the
2 applicable percentage as being equal to 50 percent
3 for all taxable years beginning before 2018. Such
4 election, once made, shall be irrevocable.

5 “(d) OTHERWISE DEDUCTIBLE ADVERTISING EX-
6 PENSES.—For purposes of this section—

7 “(1) IN GENERAL.—The term ‘otherwise de-
8 ductible advertising expenses’ means, with respect to
9 any taxpayer for any taxable year, the deductions
10 which would (but for this section) be allowable to the
11 taxpayer for such taxable year with respect to speci-
12 fied advertising expenses.

13 “(2) SPECIFIED ADVERTISING EXPENSES.—The
14 term ‘specified advertising expenses’ means any
15 amount paid or incurred for the development, pro-
16 duction, or placement (including any form of trans-
17 mission, broadcast, publication, display, or distribu-
18 tion) of any communication to the general public (or
19 portions thereof) which is intended to promote the
20 taxpayer or a trade or business of the taxpayer (or
21 any service, facility, or product provided pursuant to
22 such trade or business).

23 “(3) EXCEPTIONS.—The term ‘specified adver-
24 tising expenses’ shall not include—

1 “(A) CERTAIN WAGES.—Wages paid or in-
2 curred to any employee unless the services ren-
3 dered by such employee are primarily related
4 to—

5 “(i) an activity described in paragraph
6 (2) (other than the direct sale of goods or
7 services to customers of the taxpayer), or

8 “(ii) the direct supervision of employ-
9 ees rendering services primarily related to
10 such an activity.

11 “(B) DEPRECIATION OF TANGIBLE PROP-
12 PERTY.—In the case of any tangible property,
13 any amount for which a deduction is allowed for
14 depreciation under section 167.

15 “(C) AMORTIZABLE SECTION 197 INTANGI-
16 BLES.—Any amount for which a deduction is
17 allowed for amortization under section 197.

18 “(D) DISCOUNTS, ETC.—Any discount,
19 coupon, rebate, slotting allowance, sample,
20 prize, loyalty reward point, or any item deter-
21 mined by the Secretary to be similar to any of
22 the foregoing (other than any amount paid or
23 incurred to promote any of the foregoing).

24 “(E) CERTAIN COMMUNICATIONS ON TAX-
25 PAYER’S PROPERTY.—Any amount paid or in-

1 curred with respect to any communication ap-
2 pearing on tangible property of the taxpayer
3 which—

4 “(i) is of a character subject to the al-
5 lowance for depreciation, or

6 “(ii) is properly treated as inventory
7 for purposes of section 471.

8 “(F) CREATION OF LOGOS, TRADE NAMES,
9 ETC.—Any amount paid or incurred for the cre-
10 ation of any logo, trademark, or trade name.

11 “(G) PACKAGE DESIGN.—Any amount to
12 which section 263A(i) applies.

13 “(H) MARKETING RESEARCH.—Any
14 amount paid or incurred for marketing re-
15 search.

16 “(I) BUSINESS MEALS.—Any amount paid
17 or incurred for meals.

18 “(J) QUALIFIED SPONSORSHIP PAY-
19 MENTS.—Any amount paid or incurred as a
20 qualified sponsorship payment (as defined in
21 section 513(i)(2)) with respect to an organiza-
22 tion subject to the tax imposed by section 511.

23 “(e) TREATMENT UPON ABANDONMENT.—If any
24 property with respect to which specified advertising ex-
25 penses are paid or incurred is disposed, retired, or aban-

1 doned during the period during which such expenses are
2 allowed as an amortization deduction under this section,
3 no deduction shall be allowed with respect such expenses
4 on account of such disposition, retirement, or abandon-
5 ment and such amortization deduction shall continue with
6 respect to such expenses.

7 “(f) INFLATION ADJUSTMENT.—

8 “(1) IN GENERAL.—In the case of any taxable
9 year beginning after 2015, each of the dollar
10 amounts in subsection (b) shall be increased by an
11 amount equal to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-
14 mined under section 1(c)(2)(A) for such cal-
15 endar year, determined by substituting ‘cal-
16 endar year 2014’ for ‘calendar year 2012’ in
17 clause (ii) thereof.

18 “(2) ROUNDING.—The amount of any increase
19 under paragraph (1) shall be rounded to the nearest
20 multiple of \$10,000.”.

21 (b) CAPITALIZATION OF PACKAGE DESIGN EX-
22 PENSES.—Section 263A is amended by redesignating sub-
23 section (i) as subsection (j) and by inserting after sub-
24 section (h) the following new subsection:

1 “(i) CAPITALIZATION OF PACKAGE DESIGN EX-
2 PENSES.—For purposes of this section, in the case of any
3 amount paid or incurred for package design, such amounts
4 shall be treated as an indirect cost described in subsection
5 (a)(2)(B) with respect to packages which utilize such de-
6 sign.”.

7 (c) CLERICAL AMENDMENT.—The table of sections
8 for part VI of subchapter B of chapter 1 is amended by
9 inserting after the item relating to section 176 the fol-
10 lowing new item:

“Sec. 177. Amortization of certain advertising expenses.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to amounts paid or incurred in tax-
13 able years beginning after December 31, 2014.

14 **SEC. 3111. EXPENSING CERTAIN DEPRECIABLE BUSINESS**
15 **ASSETS FOR SMALL BUSINESS.**

16 (a) IN GENERAL.—

17 (1) DOLLAR LIMITATION.—Paragraph (1) of
18 section 179(b) is amended by striking “shall not ex-
19 ceed—” and all that follows and inserting “shall not
20 exceed \$250,000.”.

21 (2) REDUCTION IN LIMITATION.—Paragraph
22 (2) of section 179(b) is amended by striking “ex-
23 ceeds—” and all that follows and inserting “exceeds
24 \$800,000.”.

1 (b) COMPUTER SOFTWARE.—Clause (ii) of section
2 179(d)(1)(A) is amended by striking “to which section
3 167 applies, and which is placed in service in a taxable
4 year beginning after 2002 and before 2014” and inserting
5 “and to which section 167 applies”.

6 (c) ELECTION.—Paragraph (2) of section 179(c) is
7 amended—

8 (1) by striking “may not be revoked” and all
9 that follows through “and before 2014”, and

10 (2) by striking “IRREVOCABLE” in the heading
11 thereof.

12 (d) AIR CONDITIONING AND HEATING UNITS.—
13 Paragraph (1) of section 179(d) is amended by striking
14 “and shall not include air conditioning or heating units”.

15 (e) QUALIFIED REAL PROPERTY.—Section 179(f) is
16 amended—

17 (1) by striking “beginning in 2010, 2011, 2012,
18 or 2013” in paragraph (1), and

19 (2) by striking paragraphs (3) and (4).

20 (f) INFLATION ADJUSTMENT.—Subsection (b) of sec-
21 tion 179 is amended by adding at the end the following
22 new paragraph:

23 “(6) INFLATION ADJUSTMENT.—

24 “(A) IN GENERAL.—In the case of any
25 taxable year beginning after 2014, the dollar

1 amounts in paragraphs (1) and (2) shall each
2 be increased by an amount equal to—

3 “(i) such dollar amount, multiplied by

4 “(ii) the cost-of-living adjustment de-
5 termined under section 1(c)(2)(A) for such
6 calendar year, determined by substituting
7 ‘calendar year 2013’ for ‘calendar year
8 2012’ in clause (ii) thereof.

9 “(B) ROUNDING.—The amount of any in-
10 crease under subparagraph (A) shall be round-
11 ed to the nearest multiple of \$10,000.”.

12 (g) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2013.

15 **SEC. 3112. REPEAL OF ELECTION TO EXPENSE CERTAIN RE-**
16 **FINERIES.**

17 (a) IN GENERAL.—Part VI of subchapter B of chap-
18 ter 1 is amended by striking section 179C (and by striking
19 the item relating to such section in the table of sections
20 for such part).

21 (b) CONFORMING AMENDMENT.—Section 312(k)(3),
22 as amended by the preceding provisions of this Act, is
23 amended by striking “, 179C” each place it appears.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 December 31, 2013.

4 **SEC. 3113. REPEAL OF DEDUCTION FOR ENERGY EFFI-**
5 **CIENT COMMERCIAL BUILDINGS.**

6 (a) IN GENERAL.—Part VI of subchapter B of chap-
7 ter 1 is amended by striking section 179D (and by striking
8 the item relating to such section in the table of sections
9 for such part).

10 (b) CONFORMING AMENDMENT.—

11 (1) Section 1016(a) is amended by striking
12 paragraph (31).

13 (2) Section 312(k)(3), as amended by the pre-
14 ceding provisions of this Act, is amended by striking
15 “, 179D” each place it appears.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to property placed in service after
18 December 31, 2013.

19 **SEC. 3114. REPEAL OF ELECTION TO EXPENSE ADVANCED**
20 **MINE SAFETY EQUIPMENT.**

21 (a) IN GENERAL.—Part VI of subchapter B of chap-
22 ter 1 is amended by striking section 179E (and by striking
23 the item relating to such section in the table of sections
24 for such part).

1 (b) CONFORMING AMENDMENT.—Section 312(k)(3),
2 as amended by the preceding provisions of this Act, is
3 amended—

4 (1) by striking “, or 179E, as the case may
5 be”, and

6 (2) by striking “, or 179E” each place it ap-
7 pears.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to property placed in service after
10 December 31, 2013.

11 **SEC. 3115. REPEAL OF DEDUCTION FOR EXPENDITURES BY**
12 **FARMERS FOR FERTILIZER, ETC.**

13 (a) IN GENERAL.—Part VI of subchapter B of chap-
14 ter 1 is amended by striking section 180 (and by striking
15 the item relating to such section in the table of sections
16 for such part).

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to expenses paid or incurred in
19 taxable years beginning after December 31, 2014.

20 **SEC. 3116. REPEAL OF SPECIAL TREATMENT OF CERTAIN**
21 **QUALIFIED FILM AND TELEVISION PRODUC-**
22 **TIONS.**

23 (a) IN GENERAL.—Part VI of subchapter B of chap-
24 ter 1 is amended by striking section 181 (and by striking

1 the item relating to such section in the table of sections
2 for such part).

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to productions commencing after
5 December 31, 2013.

6 **SEC. 3117. REPEAL OF SPECIAL RULES FOR RECOVERIES**
7 **OF DAMAGES OF ANTITRUST VIOLATIONS,**
8 **ETC.**

9 (a) IN GENERAL.—Part VI of subchapter B of chap-
10 ter 1 is amended by striking section 186 (and by striking
11 the item relating to such section in the table of sections
12 for such part).

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2014.

16 **SEC. 3118. TREATMENT OF REFORESTATION EXPENDI-**
17 **TURES.**

18 (a) ELIMINATION OF EXPENSING ELECTION.—Sec-
19 tion 194 is amended by striking subsections (a) and (b),
20 by redesignating subsection (c) and (d) as subsections (b)
21 and (c), respectively, and by inserting before subsection
22 (b) (as so redesignated) the following new subsection:

23 “(a) IN GENERAL.—In the case of a taxpayer’s quali-
24 fied reforestation expenditures for any taxable year—

1 “(1) except as provided in paragraph (2), no
2 deduction shall be allowed for such expenditures,
3 and

4 “(2) the taxpayer shall—

5 “(A) charge such expenditures to capital
6 account, and

7 “(B) be allowed an amortization deduction
8 of such expenditures ratably over the 7-year pe-
9 riod beginning with the midpoint of the taxable
10 year in which such expenditures are paid or in-
11 curred.”.

12 (b) QUALIFIED REFORESTATION EXPENDITURES.—
13 Section 194(b), as redesignated by subsection (a), is
14 amended by striking paragraph (2), by redesignating
15 paragraph (1) as paragraph (2), and by inserting before
16 paragraph (2) (as so redesignated the following new para-
17 graph:

18 “(1) QUALIFIED REFORESTATION EXPENDI-
19 TURES.—The term ‘qualified reforestation expendi-
20 tures’ means, with respect to any taxable year, the
21 reforestation expenditures paid or incurred by the
22 taxpayer during such taxable year with respect to
23 qualified timber property.”.

1 (c) QUALIFIED TIMBER PROPERTY LIMITED TO OR-
2 NAMENTAL TREES.—Section 194(b)(2), as redesignated
3 by subsections (a) and (b), is amended to read as follows:

4 “(2) QUALIFIED TIMBER PROPERTY.—The term
5 ‘qualified timber property’ means a woodlot or other
6 site located in the United States which—

7 “(A) will contain evergreen trees in signifi-
8 cant commercial quantities which are reason-
9 ably expected to be more than 6 years old at
10 the time severed from the roots, and

11 “(B) is held by the taxpayer for the plant-
12 ing, cultivating, caring for, and cutting of such
13 trees for sale for ornamental purposes.”.

14 (d) DETERMINATION OF RECOMPUTED BASIS.—Sec-
15 tion 1245(b) is amended by striking paragraph (7).

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to expenditures paid or incurred
18 in taxable years beginning after December 31, 2014.

19 **SEC. 3119. 20-YEAR AMORTIZATION OF GOODWILL AND CER-**
20 **TAIN OTHER INTANGIBLES.**

21 (a) IN GENERAL.—Subsection (a) of section 197 is
22 amended by striking “15-year period” and inserting “20-
23 year period”.

1 (b) MORTGAGE SERVICING RIGHTS.—Subsection (e)
2 of section 197 is amended by striking paragraph (6) and
3 by redesignating paragraph (7) as paragraph (6).

4 (c) CONFORMING AMENDMENTS.—

5 (1) Clause (i) of section 197(e)(4)(D) is amend-
6 ed by striking “15 years” and inserting “20 years”.

7 (2) Section 167(f) is amended by striking para-
8 graph (3).

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to property acquired after Decem-
11 ber 31, 2014.

12 **SEC. 3120. TREATMENT OF ENVIRONMENTAL REMEDIATION**

13 **COSTS.**

14 (a) IN GENERAL.—Subsection (a) of section 198 is
15 amended to read as follows:

16 “(a) IN GENERAL.—In the case of a taxpayer’s quali-
17 fied environmental remediation expenditures for any tax-
18 able year—

19 “(1) except as provided in paragraph (2), no
20 deduction shall be allowed for such expenditures,
21 and

22 “(2) the taxpayer shall—

23 “(A) charge such expenditures to capital
24 account, and

1 “(B) be allowed an amortization deduction
2 of such expenditures ratably over the 40-year
3 period beginning with the midpoint of the tax-
4 able year in which such expenditures are paid
5 or incurred.”.

6 (b) MADE PERMANENT.—Section 198 is amended by
7 striking subsection (h).

8 (c) CONFORMING AMENDMENTS.—

9 (1) Section 198, as amended by subsection (b),
10 is amended by striking subsection (f) and by redesign-
11 ating subsection (g) as subsection (f).

12 (2) Section 198 (and the item relating to such
13 section in the table of sections for part VI of sub-
14 chapter B of chapter 1) is amended by striking “**EX-**
15 **PENSING**” in the heading thereof and inserting
16 “**AMORTIZATION**”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to expenditures paid or incurred
19 after December 31, 2014.

20 **SEC. 3121. REPEAL OF EXPENSING OF QUALIFIED DIS-**
21 **ASTER EXPENSES.**

22 (a) IN GENERAL.—Part VI of subchapter B of chap-
23 ter 1 is amended by striking section 198A (and by striking
24 the item relating to such section in the table of sections
25 for such part).

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to amounts paid or incurred after
 3 December 31, 2014.

4 **SEC. 3122. PHASEOUT AND REPEAL OF DEDUCTION FOR IN-**
 5 **COME ATTRIBUTABLE TO DOMESTIC PRO-**
 6 **DUCTION ACTIVITIES.**

7 (a) PHASEOUT.—

8 (1) IN GENERAL.—Subsection (a) of section
 9 199 is amended by adding at the end the following
 10 new paragraph:

11 “(3) PHASEOUT.—In the case of any taxable
 12 year beginning after 2014, paragraph (1) shall be
 13 applied by substituting for the percentage contained
 14 therein the phaseout percentage determined under
 15 the following table:

“For taxable years beginning in:	The phaseout percentage
	is:
2015	6%
2016	3%”.

16 (2) COORDINATION WITH OIL RELATED QUALI-
 17 FIED PRODUCTION ACTIVITIES INCOME.—Section
 18 199(d) is amended by striking paragraph (9).

19 (3) EFFECTIVE DATE.—The amendments made
 20 by this subsection shall apply to taxable years begin-
 21 ning after December 31, 2014.

22 (b) REPEAL.—

1 (1) IN GENERAL.—Part VI of subchapter B of
2 chapter 1 is amended by striking section 199 (and
3 by striking the item relating to such section in the
4 table of sections for such part).

5 (2) CONFORMING AMENDMENTS.—

6 (A) Sections 86(b)(2)(A), 137(b)(3)(A),
7 246(b)(1), and 469(i)(3)(F)(iii) are each
8 amended by striking “199.”

9 (B) Section 163(j)(6)(A)(i), as amended by
10 the preceding provisions of this Act, is amended
11 by striking subclause (III) and by redesignating
12 subclauses (IV) and (V) as subclauses (III) and
13 (IV), respectively.

14 (C) Section 170(b)(2)(C), as amended by
15 the preceding provisions of this Act, is amended
16 by striking clause (v), by redesignating clause
17 (vi) as clause (v), and by inserting “and” at the
18 end of clause (iv).

19 (D) Section 172(d) is amended by striking
20 paragraph (7).

21 (E) Section 1402(a) is amended by adding
22 “and” at the end of paragraph (15) and by
23 striking paragraph (16).

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to taxable years begin-
3 ning after December 31, 2016.

4 **SEC. 3123. UNIFICATION OF DEDUCTION FOR ORGANIZA-**
5 **TIONAL EXPENDITURES.**

6 (a) IN GENERAL.—Subsections (a) and (b) of section
7 195 is amended by inserting “and organizational” after
8 “start-up” each place it appears.

9 (b) ORGANIZATIONAL EXPENDITURES.—Subsection
10 (c) of section 195 is amended by adding at the end the
11 following new paragraph:

12 “(3) ORGANIZATIONAL EXPENDITURES.—The
13 term ‘organizational expenditures’ means any ex-
14 penditure which—

15 “(A) is incident to the creation of a cor-
16 poration or a partnership,

17 “(B) is chargeable to capital account, and

18 “(C) is of a character which, if expended
19 incident to the creation of a corporation or a
20 partnership having a limited life, would be am-
21 ortizable over such life.”.

22 (c) DOLLAR AMOUNTS.—Clause (ii) of section
23 195(b)(1)(A) is amended—

24 (1) by striking “\$5,000” and inserting
25 “\$10,000”, and

1 (2) by striking “\$50,000” and inserting
2 “\$60,000”.

3 (d) MID-YEAR CONVENTION.—Subparagraph (B) of
4 section 195(b)(1), as amended by subsection (a), is
5 amended to read as follows:

6 “(B) the remainder of such start-up and
7 organizational expenditures shall be charged to
8 capital account and allowed as an amortization
9 deduction determined by amortizing such ex-
10 penditures ratably over the 15-year period be-
11 ginning with the midpoint of the taxable year in
12 which the active trade or business begins.”.

13 (e) CONFORMING AMENDMENTS.—

14 (1) Section 195(b)(1) is amended—

15 (A) by inserting “(or, in the case of a part-
16 nership, the partnership elects)” after “If a tax-
17 payer elects”, and

18 (B) by inserting “(or the partnership, as
19 the case may be)” after “the taxpayer” in sub-
20 paragraph (A).

21 (2) Section 195(b)(2) is amended—

22 (A) by striking “AMORTIZATION PERIOD.—
23 In any case” and inserting the following: “AM-
24 ORTIZATION PERIOD.—

25 “(A) IN GENERAL.—In any case”, and

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

3 “(B) SPECIAL PARTNERSHIP RULE.—In
4 the case of a partnership, subparagraph (A)
5 shall be applied at the partnership level.”.

6 (3) Section 195(b) is amended by striking para-
7 graph (3).

8 (4)(A) Part VIII of subchapter B of chapter 1
9 is amended by striking section 248 (and by striking
10 the item relating to such section in the table of sec-
11 tions for such part).

12 (B) Section 170(b)(2)(C)(ii) is amended by
13 striking “(except section 248)”.

14 (C) Section 312(n)(3) is amended by striking
15 “Sections 173 and 248” and inserting “Section
16 173”.

17 (D) Section 535(b)(3) is amended by striking
18 “(except section 248)”.

19 (E) Section 545(b)(3) is amended by striking
20 “(except section 248)”.

21 (F) Section 834(e)(7) is amended by striking
22 “(except section 248)”.

23 (G) Section 852(b)(2)(C) is amended by strik-
24 ing “(except section 248)”.

1 (H) Section 857(b)(2)(A) is amended by strik-
2 ing “(except section 248)”.

3 (I) Section 1363(b) is amended by inserting
4 “and” at the end of paragraph (2), by striking para-
5 graph (3), and by redesignating paragraph (4) as
6 paragraph (3).

7 (J) Section 1375(b)(1)(B)(i) is amended by
8 striking “(other than the deduction allowed by sec-
9 tion 248, relating to organization expenditures)”.

10 (5) Part I of subchapter K of chapter 1 is
11 amended by striking section 709 (and by striking
12 the item relating to such section in the table of sec-
13 tions for such part).

14 (6) The heading of section 195 (and the item
15 relating to such section in the table of sections for
16 part VI of subchapter B of chapter 1) are each
17 amended by inserting “and organizational” after
18 “Start-up”.

19 (f) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to expenses paid or incurred in
21 taxable years beginning after December 31, 2014.

1 **SEC. 3124. PREVENTION OF ARBITRAGE OF DEDUCTIBLE**
2 **INTEREST EXPENSE AND TAX-EXEMPT INTER-**
3 **EST INCOME.**

4 (a) PRO RATA ALLOCATION RULES APPLICABLE TO
5 FINANCIAL INSTITUTIONS MODIFIED AND MADE APPLI-
6 CABLE TO ALL C CORPORATIONS.—

7 (1) APPLICATION TO CORPORATIONS.—So much
8 of section 265(b) as precedes paragraph (3) is
9 amended to read as follows:

10 “(b) PRO RATA ALLOCATION OF INTEREST EXPENSE
11 OF CORPORATIONS AND FINANCIAL INSTITUTIONS TO
12 TAX-EXEMPT INTEREST.—

13 “(1) IN GENERAL.—In the case of a C corpora-
14 tion or a financial institution, no deduction shall be
15 allowed for that portion of the taxpayer’s interest ex-
16 pense which is allocable to tax-exempt interest.

17 “(2) ALLOCATION.—For purposes of paragraph
18 (1), the portion of the taxpayer’s interest expense
19 which is allocable to tax-exempt interest is an
20 amount which bears the same ratio to such interest
21 expense as—

22 “(A) the taxpayer’s average adjusted bases
23 (within the meaning of section 1016) of tax-ex-
24 empt obligations acquired on or after February
25 26, 2014 (August 7, 1986, in the case of a fi-
26 nancial institution), bears to

1 “(B) such average adjusted bases for all
2 assets of the taxpayer.”.

3 (2) REPEAL OF EXCEPTIONS.—Section 265(b)
4 is amended by striking paragraphs (3) and (7).

5 (b) LIMITATION ON INVESTMENT INTEREST.—

6 (1) IN GENERAL.—Section 163(d)(1) is amend-
7 ed to read as follows:

8 “(1) IN GENERAL.—In the case of a taxpayer
9 other than a corporation, the amount allowed as a
10 deduction under this chapter for investment interest
11 for any taxable year—

12 “(A) shall be reduced by the amount of
13 tax-exempt interest received by the taxpayer
14 during such taxable year, and

15 “(B) shall not (after any reduction under
16 subparagraph (A)) exceed the net investment
17 income of the taxpayer for such taxable year.”.

18 (2) REDUCTIONS FOR TAX-EXEMPT INTEREST
19 NOT CARRIED FORWARD.—Section 163(d)(2) is
20 amended by striking “paragraph (1)” and inserting
21 “paragraph (1)(B)”.

22 (3) CLARIFICATION THAT PROPERTY HELD FOR
23 INVESTMENT INCLUDES PROPERTY PRODUCING TAX-
24 EXEMPT INTEREST.—Section 163(d)(5)(A) is
25 amended by striking “and” at the end of clause (i),

1 by striking the period at the end of clause (ii)(II)
2 and inserting “, and”, and by adding at the end the
3 following new clause:

4 “(iii) any property held for the pro-
5 duction of tax-exempt interest (including
6 any shares of stock of a regulated invest-
7 ment company which during the taxable
8 year of the holder thereof distributes ex-
9 empt-interest dividends).”.

10 (4) COORDINATION WITH SECTION 265.—

11 (A) IN GENERAL.—Section 265(a) is
12 amended by—

13 (i) striking paragraph (2) and insert-
14 ing the following new paragraph:

15 “(2) INTEREST.—

16 “(A) CORPORATIONS AND FINANCIAL IN-
17 STITUTIONS.—For pro rata allocation rules in
18 the case of corporations and financial institu-
19 tions, see subsection (b).

20 “(B) OTHER TAXPAYERS.—For limitation
21 on investment interest in the case of other tax-
22 payers, see section 163(d).”, and

23 (ii) by striking paragraphs (4) and (5)
24 and by redesignating paragraph (6) as
25 paragraph (4).

1 (B) CONFORMING AMENDMENTS.—

2 (i) Section 265(b), as amended by
3 subsection (a), is amended by inserting
4 after paragraph (2) the following new
5 paragraph:

6 “(3) SPECIAL RULES FOR SHORT SALES.—

7 “(A) IN GENERAL.—For purposes of this
8 subsection, interest includes any amount paid
9 or incurred—

10 “(i) by any person making a short
11 sale in connection with personal property
12 used in such short sale, or

13 “(ii) by any other person for the use
14 of any collateral with respect to such short
15 sale.

16 “(B) EXCEPTION WHERE NO RETURN ON
17 CASH COLLATERAL.—If—

18 “(i) the taxpayer provides cash as col-
19 lateral for any short sale, and

20 “(ii) the taxpayer receives no material
21 earnings on such cash during the period of
22 the sale,

23 subparagraph (A)(i) shall not apply to such
24 short sale.”.

1 (ii) Section 265(b)(6) is amended to
2 read as follows:

3 “(6) COORDINATION WITH SECTION 263A.—This
4 section shall be applied before the application of sec-
5 tion 263A (relating to capitalization of certain ex-
6 penses where taxpayer produces property).”.

7 (iii) Section 163(n)(2) is amended to
8 read as follows:

9 “(2) For disallowance of deduction for interest
10 relating to tax-exempt income, see sections 163(d)
11 and 265(b)”.

12 (c) EFFECTIVE DATES.—

13 (1) APPLICATION OF PRO RATA ALLOCATION
14 RULES.—

15 (A) APPLICATION TO C CORPORATIONS.—
16 The amendments made by subsection (a)(1)
17 shall apply to taxable years ending on or after
18 February 26, 2014.

19 (B) REPEAL OF EXCEPTIONS.—The
20 amendments made by subsection (a)(2) shall
21 apply to obligations issued on or after February
22 26, 2014.

23 (2) LIMITATION ON INVESTMENT INTEREST.—
24 The amendments made by subsection (b) shall apply
25 to taxable years beginning after December 31, 2014.

1 **SEC. 3125. PREVENTION OF TRANSFER OF CERTAIN LOSSES**
2 **FROM TAX INDIFFERENT PARTIES.**

3 (a) IN GENERAL.—Section 267(d) is amended to
4 read as follows:

5 “(d) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY
6 DISALLOWED.—

7 “(1) IN GENERAL.—If—

8 “(A) in the case of a sale or exchange of
9 property to the taxpayer a loss sustained by the
10 transferor is not allowable to the transferor as
11 a deduction by reason of subsection (a)(1), and

12 “(B) the taxpayer sells or otherwise dis-
13 poses of such property (or of other property the
14 basis of which in the taxpayer’s hands is deter-
15 mined directly or indirectly by reference to such
16 property) at a gain,

17 then such gain shall be recognized only to the extent
18 that it exceeds so much of such loss as is properly
19 allocable to the property sold or otherwise disposed
20 of by the taxpayer.

21 “(2) EXCEPTION FOR WASH SALES.—Para-
22 graph (1) shall not apply if the loss sustained by the
23 transferor is not allowable to the transferor as a de-
24 duction by reason of section 1091 (relating to wash
25 sales).

1 “(3) EXCEPTION FOR TRANSFERS FROM TAX
2 INDIFFERENT PARTIES.—Paragraph (1) shall not
3 apply to the extent any loss sustained by the trans-
4 feror (if allowed) would not be taken into account in
5 determining a tax imposed under section 1 or 11 or
6 a tax computed as provided by either of such sec-
7 tions.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to sales and exchanges after De-
10 cember 31, 2014.

11 **SEC. 3126. ENTERTAINMENT, ETC. EXPENSES.**

12 (a) DENIAL OF DEDUCTION.—Subsection (a) of sec-
13 tion 274 is amended to read as follows:

14 “(a) ENTERTAINMENT, AMUSEMENT, OR RECRE-
15 ATION.—

16 “(1) IN GENERAL.—No deduction otherwise al-
17 lowable under this chapter shall be allowed for
18 amounts paid or incurred for any of the following
19 items:

20 “(A) ACTIVITY.—With respect to an activ-
21 ity which is of a type generally considered to
22 constitute entertainment, amusement, or recre-
23 ation.

24 “(B) MEMBERSHIP DUES.—With respect
25 to membership in any club organized for busi-

1 ness, pleasure, recreation or other social pur-
2 poses.

3 “(C) AMENITY.—With respect to a de-
4 minimis fringe (as defined in section 132(e)(1))
5 that is primarily personal in nature and involv-
6 ing property or services that are not directly re-
7 lated to the taxpayer’s trade or business.

8 “(D) FACILITY.—With respect to a facility
9 or portion thereof used in connection with an
10 activity referred to in subparagraph (A), mem-
11 bership dues or similar amounts referred to in
12 subparagraph (B), or an amenity referred to in
13 subparagraph (C).

14 “(E) QUALIFIED TRANSPORTATION
15 FRINGE AND PARKING FACILITY.—Which is a
16 qualified transportation fringe (as defined in
17 section 132(f)) or which is a parking facility
18 used in connection with qualified parking (as
19 defined in section 132(f)(5)(C)).

20 “(2) SPECIAL RULES.—For purposes of apply-
21 ing paragraph (1), an activity described in section
22 212 shall be treated as a trade or business.

23 “(3) REGULATIONS.—Under the regulations
24 prescribed to carry out this section, the Secretary
25 shall include regulations—

1 “(A) defining entertainment, amenities,
2 recreation, amusement, and facilities for pur-
3 poses of this subsection,

4 “(B) providing for the appropriate alloca-
5 tion of depreciation and other costs with respect
6 to facilities used for parking, and

7 “(C) specifying arrangements a primary
8 purpose of which is the avoidance of this sub-
9 section.”.

10 (b) EXCEPTION FOR CERTAIN EXPENSES INCLUD-
11 IBLE IN INCOME OF RECIPIENT.—

12 (1) EXPENSES TREATED AS COMPENSATION.—

13 Paragraph (2) of section 274(e) is amended to read
14 as follows:

15 “(2) EXPENSES TREATED AS COMPENSATION.—

16 Expenses for goods, services, and facilities, to the
17 extent that the expenses do not exceed the amount
18 of the expenses which are treated by the taxpayer,
19 with respect to the recipient of the entertainment,
20 amusement, or recreation, as compensation to an
21 employee on the taxpayer’s return of tax under this
22 chapter and as wages to such employee for purposes
23 of chapter 24 (relating to withholding of income tax
24 at source on wages).”.

1 (2) EXPENSES INCLUDIBLE IN INCOME OF PER-
2 SONS WHO ARE NOT EMPLOYEES.—Paragraph (9) of
3 section 274(e) is amended by striking “to the extent
4 that the expenses” and inserting “to the extent that
5 the expenses do not exceed the amount of the ex-
6 penses that”.

7 (c) EXCEPTIONS FOR REIMBURSED EXPENSES.—
8 Paragraph (3) of section 274(e) is amended to read as
9 follows:

10 “(3) REIMBURSED EXPENSES.—

11 “(A) IN GENERAL.—Expenses paid or in-
12 curred by the taxpayer, in connection with the
13 performance by him of services for another per-
14 son (whether or not such other person is the
15 taxpayer’s employer), under a reimbursement or
16 other expense allowance arrangement with such
17 other person, but this paragraph shall apply—

18 “(i) where the services are performed
19 for an employer, only if the employer has
20 not treated such expenses in the manner
21 provided in paragraph (2), or

22 “(ii) where the services are performed
23 for a person other than an employer, only
24 if the taxpayer accounts (to the extent pro-
25 vided by subsection (d)) to such person.

1 “(B) EXCEPTION.—Except as provided by
2 the Secretary, subparagraph (A) shall not
3 apply—

4 “(i) in the case of an arrangement in
5 which the person other than the employer
6 is an entity described in section
7 168(g)(2)(A), or

8 “(ii) to any other arrangement des-
9 ignated by the Secretary as having the ef-
10 fect of avoiding the limitation under sub-
11 paragraph (A).”.

12 (d) 50 PERCENT LIMITATION ON MEALS AND EN-
13 TERTAINMENT EXPENSES.—Subsection (n) of section 274
14 is amended to read as follows:

15 “(n) LIMITATION ON CERTAIN EXPENSES.—

16 “(1) IN GENERAL.—The amount allowable as a
17 deduction under this chapter for any expense for
18 food or beverages (pursuant to subsection (e)(1)) or
19 business meals (pursuant to subsection (k)(1)) shall
20 not exceed 50 percent of the amount of such expense
21 or item which would (but for this paragraph) be al-
22 lowable as a deduction under this chapter.

23 “(2) EXCEPTIONS.—Paragraph (1) shall not
24 apply to any expense if—

1 “(A) such expense is described in para-
2 graph (2), (3), (6), (7), or (8) of subsection (e),

3 “(B) in the case of an expense for food or
4 beverages, such expense is excludable from the
5 gross income of the recipient under section 132
6 by reason of subsection (e) thereof (relating to
7 de minimis fringes) or under section 119 (relat-
8 ing to meals and lodging furnished for conven-
9 ience of employer), or

10 “(C) in the case of an employer who pays
11 or reimburses moving expenses of an employee,
12 such expenses are includible in the income of
13 the employee under section 82.

14 “(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT
15 TO FEDERAL HOURS OF SERVICE.—In the case of
16 any expenses for food or beverages consumed while
17 away from home (within the meaning of section
18 162(a)(2)) by an individual during, or incident to,
19 the period of duty subject to the hours of service
20 limitations of the Department of Transportation,
21 paragraph (1) shall be applied by substituting ‘80
22 percent’ for ‘50 percent’.”.

23 (e) CONFORMING AMENDMENTS.—

24 (1) Section 274(d) is amended—

- 1 (A) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and
- 2
3
4 (B) in the flush material following paragraph (3) (as so redesignated)—
- 5
6 (i) by striking “, entertainment, amusement, recreation, or” in item (B),
- 7
8 and
- 9 (ii) by striking “(D) the business relationship to the taxpayer of persons entertained, using the facility or property, or receiving the gift” and inserting “(D) the business relationship to the taxpayer of the person receiving the benefit”.
- 10
11
12
13
14
15 (2) Section 274(e) is amended by striking paragraph (4) and redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.
- 16
17
18
19 (3) Section 274(k)(2)(A) is amended by striking “(4), (7), (8), or (9)” and inserting “(6), (7), or (8)”.
- 20
21
22 (4) Section 274 is amended by striking subsection (l).
- 23

1 (5) Section 274(m)(1)(B)(ii) is amended by
2 striking “(4), (7), (8), or (9)” and inserting “(6),
3 (7), or (8)”.

4 (f) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to amounts paid or incurred after
6 December 31, 2014.

7 **SEC. 3127. REPEAL OF LIMITATION ON CORPORATE ACQUI-**
8 **SITION INDEBTEDNESS.**

9 (a) IN GENERAL.—Part IX of subchapter B of chap-
10 ter 1 is amended by striking section 279 (and by striking
11 the item relating to such section in the table of sections
12 for such part).

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to interest paid or incurred with
15 respect to indebtedness incurred after December 31, 2014.

16 **SEC. 3128. DENIAL OF DEDUCTIONS AND CREDITS FOR EX-**
17 **PENDITURES IN ILLEGAL BUSINESSES.**

18 (a) IN GENERAL.—Section 280E is amended to read
19 as follows:

20 **“SEC. 280E. EXPENDITURES IN CONNECTION WITH ILLEGAL**
21 **BUSINESSES.**

22 “No deduction or credit shall be allowed for any
23 amount paid or incurred during the taxable year in car-
24 rying on any trade or business if—

1 “(1) such trade or business (or the activities
2 which comprise such trade or business) consists of
3 trafficking in controlled substances (within the
4 meaning of schedule I and II of the Controlled Sub-
5 stances Act) which is prohibited by Federal law or
6 the law of any State in which such trade or business
7 is conducted, or

8 “(2) the carrying out of such trade or business
9 is a felony under Federal law or the law of any State
10 in which such trade or business is conducted.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for part IX of subchapter B of chapter 1 is amended by
13 striking the item relating to section 280E and inserting
14 the following new item:

“Sec. 280E. Expenditures in connection with illegal businesses.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to amounts paid or incurred after
17 the date of the enactment of this Act in taxable years end-
18 ing after the date of the enactment of this Act.

19 **SEC. 3129. LIMITATION ON DEDUCTION FOR FDIC PRE-**
20 **MIUMS.**

21 (a) IN GENERAL.—Section 162 is amended by redes-
22 ignating subsection (q) as subsection (r) and by inserting
23 after subsection (p) the following new subsection:

24 “(q) DISALLOWANCE OF FDIC PREMIUMS PAID BY
25 CERTAIN LARGE FINANCIAL INSTITUTIONS.—

1 “(1) IN GENERAL.—No deduction shall be al-
2 lowed for the applicable percentage of any FDIC
3 premium paid or incurred by the taxpayer.

4 “(2) EXCEPTION FOR SMALL INSTITUTIONS.—
5 Paragraph (1) shall not apply to any taxpayer for
6 any taxable year if the total consolidated assets of
7 such taxpayer (determined as of the close of such
8 taxable year) do not exceed \$10,000,000,000.

9 “(3) APPLICABLE PERCENTAGE.—For purposes
10 of this subsection, the term ‘applicable percentage’
11 means, with respect to any taxpayer for any taxable
12 year, the ratio (expressed as a percentage but not
13 greater than 100 percent) which—

14 “(A) the excess of—

15 “(i) the total consolidated assets of
16 such taxpayer (determined as of the close
17 of such taxable year), over

18 “(ii) \$10,000,000,000, bears to

19 “(B) \$40,000,000,000.

20 “(4) FDIC PREMIUMS.—For purposes of this
21 subsection, the term ‘FDIC premium’ means any as-
22 sessment imposed under section 7(b) of the Federal
23 Deposit Insurance Act (12 U.S.C. 1817(b)).

24 “(5) TOTAL CONSOLIDATED ASSETS.—For pur-
25 poses of this subsection, the term ‘total consolidated

1 assets' has the meaning given such term under sec-
2 tion 165 of the Dodd-Frank Wall Street Reform and
3 Consumer Protection Act (12 U.S.C. 5365).

4 “(6) AGGREGATION RULE.—

5 “(A) IN GENERAL.—Members of an ex-
6 panded affiliated group shall be treated as a
7 single taxpayer for purposes of applying this
8 subsection.

9 “(B) EXPANDED AFFILIATED GROUP.—
10 For purposes of this paragraph, the term ‘ex-
11 panded affiliated group’ means an affiliated
12 group as defined in section 1504(a), deter-
13 mined—

14 “(i) by substituting ‘more than 50
15 percent’ for ‘at least 80 percent’ each place
16 it appears, and

17 “(ii) without regard to paragraphs (2)
18 and (3) of section 1504(b).

19 A partnership or any other entity (other than a
20 corporation) shall be treated as a member of an
21 expanded affiliated group if such entity is con-
22 trolled (within the meaning of section
23 954(d)(3)) by members of such group (includ-
24 ing any entity treated as a member of such
25 group by reason of this sentence).”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 3130. REPEAL OF PERCENTAGE DEPLETION.**

5 (a) IN GENERAL.—Part I of subchapter I of chapter
6 1 is amended by striking sections 613 and 613A (and by
7 striking the items relating to such sections in the table
8 of sections for such part).

9 (b) CONFORMING AMENDMENTS.—

10 (1)(A) Such part is amended by redesignating
11 section 614 as section 613 (and, in the table of sec-
12 tions for such part, by redesignating the item relat-
13 ing to section 614 as an item relating to section
14 613).

15 (B) Clauses (iv) and (v) of section 465(c)(2)(A)
16 are each amended by striking “section 614” and in-
17 serting “section 613”.

18 (C) Section 1016(e) is amended by striking
19 “section 614” and inserting “section 613”.

20 (D) Section 1254(a)(3) is amended by striking
21 “section 614” and inserting “section 613”.

22 (2) Section 45(c)(4) is amended to read as fol-
23 lows:

24 “(4) GEOTHERMAL ENERGY.—

1 “(A) IN GENERAL.—The term ‘geothermal
2 energy’ means energy derived from a geo-
3 thermal deposit.

4 “(B) GEOTHERMAL DEPOSIT.—The term
5 ‘geothermal deposit’ means a geothermal res-
6 ervoir consisting of natural heat which is stored
7 in rocks or in an aqueous liquid or vapor
8 (whether or not under pressure).”.

9 (3) Section 48(a)(3)(A)(iii) is amended by
10 striking “section 613(e)(2)” and inserting “section
11 45(e)(4)(B)”

12 (4) Section 381(e) is amended by striking para-
13 graph (18).

14 (5) Section 465(e)(1)(E) is amended by striking
15 “section 613(e)(2)” and inserting “section
16 45(e)(4)(B)”.

17 (6) Section 468(d)(3) is amended by striking
18 “section 614” and inserting “section 613”.

19 (7) Section 611(a) is amended by striking the
20 second sentence.

21 (8) Section 613(d), as redesignated by para-
22 graph (1), is amended by striking “includes only”
23 and all that follows and inserting “includes only an
24 interest burdened by the costs of production.”.

1 (9) Section 636(a) is amended by striking “(for
2 purposes of section 613)”.

3 (10) Section 636(d) is amended by striking
4 “section 614(a)” and inserting “section 613(a)”.

5 (11) Section 705(a) is amended—

6 (A) in paragraph (1), by adding “and” at
7 the end of subparagraph (A), by striking “;
8 and” at the end of subparagraph (B) and in-
9 serting a period, and by striking subparagraph
10 (C),

11 (B) in paragraph (2), by striking “; and”
12 at the end of subparagraph (B) and inserting a
13 period, and

14 (C) by striking paragraph (3).

15 (12) Section 901(e)(1)(A) is amended by strik-
16 ing “(or, if smaller” and all that follows through
17 “under section 613)”.

18 (13) Section 993(c)(2)(C) is amended by insert-
19 ing “(as each such section was in effect before its
20 repeal by the Tax Reform Act of 2014)” after “sec-
21 tion 613 or 613A”.

22 (14) Section 1202(e)(3)(D) is amended by in-
23 serting “(as each such section was in effect before
24 its repeal by the Tax Reform Act of 2014)” after
25 “section 613 or 613A”.

1 (15) Section 1367(a) is amended—

2 (A) in paragraph (1), by adding “and” at
3 the end of subparagraph (A), by striking “,
4 and” at the end of subparagraph (B) and in-
5 serting a period, and by striking subparagraph
6 (C), and

7 (B) in paragraph (2), by adding “and” at
8 the end of subparagraph (C), by striking “,
9 and” at the end of subparagraph (D) and in-
10 serting a period, and by striking subparagraph
11 (E).

12 (16) Section 1446(c) is amended by striking
13 paragraph (2) and by redesignating paragraph (3)
14 as paragraph (2).

15 (17) Section 4612(a)(7) is amended by insert-
16 ing “(as in effect before its repeal by the Tax Re-
17 form Act of 2014)” after “section 613”.

18 (18) Section 4940(c)(3)(B) is amended—

19 (A) by striking clause (ii), and

20 (B) by striking all that precedes “The de-
21 duction provided” and inserting the following:

22 “(B) MODIFICATIONS.—For purposes of
23 subparagraph (A), the deduction provided”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 3131. REPEAL OF PASSIVE ACTIVITY EXCEPTION FOR**
5 **WORKING INTERESTS IN OIL AND GAS PROP-**
6 **ERTY.**

7 (a) IN GENERAL.—Subsection (c) of section 469 is
8 amended by striking paragraph (3).

9 (b) CONFORMING AMENDMENTS.—Section 469 is
10 amended—

11 (1) by striking paragraph (4) and by redesignating paragraphs (5), (6), and (7) as paragraphs
12 (3), (4), and (5), respectively, and
13 (2) in paragraph (2)—

14 (A) by striking “paragraph (7)” and inserting “paragraph (5)”, and
15 (B) by inserting “, without regard to
16 whether or not the taxpayer materially participates in the activity” before the period at the
17 end.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December, 31, 2014.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December, 31, 2014.

1 **SEC. 3132. REPEAL OF SPECIAL RULES FOR GAIN OR LOSS**
2 **ON TIMBER, COAL, OR DOMESTIC IRON ORE.**

3 (a) IN GENERAL.—Subchapter I of chapter 1 is
4 amended by striking part III (and by striking the item
5 relating to such part in the table of parts for such sub-
6 chapter).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 512(b)(5) is amended by striking
9 the last sentence.

10 (2) Section 871(a)(1)(B) is amended by strik-
11 ing “gains described in section 631(b) or (c), and”.

12 (3) Section 871(d)(1)(A) is amended—
13 (A) by striking “, (ii) rents” and inserting
14 “and (ii) rents”, and

15 (B) by striking “, and (iii) gains described
16 in section 631(b) or (c)”.

17 (4)(A) Section 881(a) is amended by striking
18 paragraph (2) and by redesignating paragraphs (3)
19 and (4) as paragraphs (2) and (3), respectively.

20 (B) Section 1442(a) is amended—
21 (i) by striking “881(a)(3) and (4)” and in-
22 serting “881(a)(2) and (3)”,

23 (ii) by striking “881(a)(3),” and inserting
24 “881(a)(2),”, and

25 (iii) by striking “881(a)(4)” and inserting
26 “881(a)(3)”.

- 1 (5) Section 882(d)(1)(A) is amended—
2 (A) by striking “, (ii) rents” and inserting
3 “and (ii) rents”, and
4 (B) by striking “, and (iii) gains described
5 in section 631(b) or (c)”.
- 6 (6) Section 1231(b) is amended by striking
7 paragraph (2).
- 8 (7) Section 1402(a)(3) is amended by inserting
9 “or” at the end of subparagraph (A) and by striking
10 subparagraph (B) and redesignating subparagraph
11 (C) as subparagraph (B).
- 12 (8) Section 1441 is amended—
13 (A) in subsection (b), by striking “, gains
14 described in section 631(b) or (c)”, and
15 (B) in subsection (c)(5), by striking “gains
16 described in section 631(b) or (c), gains subject
17 to tax under section 871(a)(1)(D),” and insert-
18 ing “gains subject to tax under section
19 871(a)(1)(D)”.
- 20 (9) (A) Part IX of subchapter B of chapter 1
21 is amended by striking section 272 (and by striking
22 the item relating to such section in the table of sec-
23 tions for such subpart).
- 24 (B) Section 1016(a) is amended by striking
25 paragraph (15).

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendments made by
4 this section shall apply to taxable years beginning
5 after December 31, 2014.

6 (2) BASIS ADJUSTMENTS.—The amendment
7 made by subsection (b)(9)(B) shall apply to deduc-
8 tions determined for taxable years beginning after
9 December 31, 2014.

10 **SEC. 3133. REPEAL OF LIKE-KIND EXCHANGES.**

11 (a) IN GENERAL.—Part III of subchapter O of chap-
12 ter 1 is amended by striking section 1031 (and by striking
13 the item relating to such section in the table of sections
14 for such part).

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 121(d)(10) is amended by inserting
17 “(as in effect before its repeal by the Tax Reform
18 Act of 2014)” after “section 1031”.

19 (2) Section 197(f)(2)(B)(i) is amended by in-
20 serting “(as in effect before its repeal by the Tax
21 Reform Act of 2014)” after “1031”.

22 (3) Section 453(f) is amended by striking para-
23 graph (6).

24 (4) Section 470(e)(4) is amended—

- 1 (A) by striking “Sections 1031(a) and” in
2 subparagraph (A) and inserting “Section”,
3 (i) by striking “1031 or” in subparagraph
4 (B), and
5 (ii) by striking “SECTIONS 1031 AND” in
6 the heading thereof and inserting “SECTION”.
- 7 (5)(A) Section 501(c)(12)(C)(v) is amended by
8 striking “asset exchange or conversion transaction”
9 and inserting “specified involuntary conversion”.
- 10 (B) Section 501(c)(12)(G) is amended—
11 (i) by striking “asset exchange or conver-
12 sion transaction” and inserting “specified invol-
13 untary conversion”,
14 (ii) by striking “voluntary exchange or”,
15 and
16 (iii) by striking “1031 or”.
- 17 (6)(A) Section 704(e) is amended by striking
18 paragraph (2) and by redesignating paragraph (3)
19 as paragraph (2).
- 20 (B) Section 704(e)(2), as so redesignated, is
21 amended by striking “or (2)”.
- 22 (7) Section 857(e)(2) is amended by striking
23 subparagraph (B) and by redesignating subpara-
24 graphs (C) and (D) as subparagraphs (B) and (C),
25 respectively.

1 (8)(A) Section 1035 is amended by striking
2 subsection (d) and inserting the following new sub-
3 sections:

4 “(d) GAIN FROM EXCHANGES NOT SOLELY IN
5 KIND.—If an exchange would be within the provisions of
6 subsection (a), of section 1036(a), or of section 1037(a),
7 if it were not for the fact that the property received in
8 exchange consists not only of property permitted by such
9 provisions to be received without the recognition of gain,
10 but also of other property or money, then the gain, if any,
11 to the recipient shall be recognized, but in an amount not
12 in excess of the sum of such money and the fair market
13 value of such other property.

14 “(e) LOSS FROM EXCHANGES NOT SOLELY IN
15 KIND.—If an exchange would be within the provisions of
16 subsection (a), of section 1036(a), or of section 1037(a),
17 if it were not for the fact that the property received in
18 exchange consists not only of property permitted by such
19 provisions to be received without the recognition of gain
20 or loss, but also of other property or money, then no loss
21 from the exchange shall be recognized.

22 “(f) BASIS.—If property was acquired on an ex-
23 change described in this section, section 1036(a), or sec-
24 tion 1037(a), then the basis shall be the same as that of
25 the property exchanged, decreased in the amount of any

1 money received by the taxpayer and increased in the
2 amount of gain or decreased in the amount of loss to the
3 taxpayer that was recognized on such exchange. If the
4 property so acquired consisted in part of the type of prop-
5 erty permitted by this section, section 1036(a), or section
6 1037(a), to be received without the recognition of gain or
7 loss, and in part of other property, the basis provided in
8 this subsection shall be allocated between the properties
9 (other than money) received, and for the purpose of the
10 allocation there shall be assigned to such other property
11 an amount equivalent to its fair market value at the date
12 of the exchange. For purposes of this section and section
13 1036(a), where as part of the consideration to the tax-
14 payer another party to the exchange assumed (as deter-
15 mined under section 357(d)) a liability of the taxpayer,
16 such assumption shall be considered as money received by
17 the taxpayer on the exchange.”.

18 (B) Section 1036(e) is amended—

19 (i) in paragraph (1), by striking “sub-
20 sections (b) and (c) of section 1031” and in-
21 serting “subsections (d) and (e) of section
22 1035”, and

23 (ii) in paragraph (2), by striking “sub-
24 section (d) of section 1031” and inserting “sub-
25 section (f) of section 1035”.

- 1 (C) Section 1037(c) is amended—
2 (i) in paragraph (1), by striking “sub-
3 sections (b) and (c) of section 1031” and in-
4 sserting “subsections (d) and (e) of section
5 1035”, and
6 (ii) in paragraph (2), by striking “sub-
7 section (d) of section 1031” and inserting “sub-
8 section (f) of section 1035”.
- 9 (D) Section 83(g) is amended by striking “sec-
10 tion 1031” and inserting “section 1035”.
- 11 (E) Section 424(b) is amended by striking “sec-
12 tion 1031” and inserting “section 1035”.
- 13 (F) Section 424(c)(1)(B) is amended by strik-
14 ing “section 1031” and inserting “section 1035”.
- 15 (9) Section 1060(e) is amended by striking the
16 second sentence thereof.
- 17 (10) Section 1245(b)(4) is amended—
18 (A) by striking “LIKE KIND EXCHANGES;
19 INVOLUNTARY” and inserting “INVOLUNTARY”,
20 and
21 (B) by striking “1031 or”.
- 22 (11) Section 1250(d)(4) is amended—
23 (A) by striking “LIKE KIND EXCHANGES;
24 INVOLUNTARY” and inserting “INVOLUNTARY”,

- 1 (B) by striking “1031 or” in subparagraph
2 (A), and
3 (C) by striking “1031 or” in subparagraph
4 (E).
- 5 (12) Section 2032A(e)(14)(C) is amended—
6 (A) in clause (i)(I), by inserting “(as in ef-
7 fect before its repeal by the Tax Reform Act of
8 2014)” after “section 1031”, and
9 (B) in clause (ii)(I), by inserting “(as so in
10 effect)” after “section 1031”.
- 11 (13) Section 4940(c)(4) is amended by striking
12 subparagraph (D).
- 13 (c) EFFECTIVE DATE.—
14 (1) IN GENERAL.—The amendments made by
15 this section shall apply to transfers after December
16 31, 2014.
- 17 (2) EXCEPTION FOR TRANSFERS PURSUANT TO
18 BINDING CONTRACTS.—Notwithstanding paragraph
19 (1), the amendments made by this section shall not
20 apply to any transfer if—
21 (A) such transfer is pursuant to a written
22 binding contract entered into before January 1,
23 2015, and
24 (B) the exchange of which such transfer is
25 a part is completed before January 1, 2017.

1 **SEC. 3134. RESTRICTION ON TRADE OR BUSINESS PROP-**
2 **ERTY TREATED AS SIMILAR OR RELATED IN**
3 **SERVICE TO INVOLUNTARILY CONVERTED**
4 **PROPERTY IN DISASTER AREAS.**

5 (a) CLASS LIFE OF REPLACEMENT PROPERTY NOT
6 TO EXCEED CONVERTED PROPERTY.—Section 1033(h)(2)
7 is amended by inserting “if the class life of such tangible
8 property does not exceed the class life of the property so
9 converted” before the period at the end.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to disasters declared after Decem-
12 ber 31, 2014.

13 **SEC. 3135. REPEAL OF ROLLOVER OF PUBLICLY TRADED**
14 **SECURITIES GAIN INTO SPECIALIZED SMALL**
15 **BUSINESS INVESTMENT COMPANIES.**

16 (a) IN GENERAL.—Part III of subchapter O of chap-
17 ter 1 is amended by striking section 1044 (and by striking
18 the item relating to such section in the table of sections
19 of such part).

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 45D(c)(2)(A) is amended to read as
22 follows:

23 “(A) any partnership or corporation which
24 is licensed by the Small Business Administra-
25 tion under section 301(d) of the Small Business

1 Investment Act of 1958 (as in effect on May
2 13, 1993), and”.

3 (2) Section 1016(a)(23) is amended—

4 (A) by striking “1044,” and

5 (B) by striking “1044(d).”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to sales after December 31, 2014.

8 **SEC. 3136. TERMINATION OF SPECIAL RULES FOR GAIN**
9 **FROM CERTAIN SMALL BUSINESS STOCK.**

10 (a) TERMINATION OF PARTIAL EXCLUSION.—Section
11 1202 is amended—

12 (1) by inserting “and before the date of the en-
13 actment of the Tax Reform Act of 2014” after
14 “Revenue Reconciliation Act of 1993” in subsection
15 (c)(1), and

16 (2) by adding at the end the following new sub-
17 section:

18 “(1) TERMINATION.—For termination with respect to
19 qualified small business stock issued after the date of the
20 enactment of the Tax Reform Act of 2014, see subsection
21 (c)(1).”.

22 (b) REPEAL OF ROLLOVER RULES.—

23 (1) IN GENERAL.—Part III of subchapter O of
24 chapter 1 is amended by striking section 1045 (and

1 by striking the item relating to such section in the
2 table of sections of such part).

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 1016(a)(23) is amended—

5 (i) by striking “1045,” and

6 (ii) by striking “1045(b)(3).”

7 (B) Section 1223 is amended by striking
8 paragraph (13).

9 (c) EFFECTIVE DATES.—

10 (1) TERMINATION OF PARTIAL EXCLUSION.—

11 The amendments made by subsection (a) shall apply
12 to sales and exchanges after the date of the enact-
13 ment of this Act.

14 (2) REPEAL OF ROLLOVER RULES.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the amendments made by
17 subsection (b) shall apply to sales after the date
18 of the enactment of this Act.

19 (B) SAVINGS PROVISION.—The amend-
20 ments made by subsection (b)(2) shall not apply
21 with respect to property the acquisition of
22 which was before the date of the enactment of
23 this Act.

1 **SEC. 3137. CERTAIN SELF-CREATED PROPERTY NOT TREAT-**
2 **ED AS A CAPITAL ASSET.**

3 (a) PATENTS, ETC.—Section 1221(a)(3) is amended
4 by inserting “a patent, invention, model or design (wheth-
5 er or not patented), a secret formula or process,” before
6 “a copyright”.

7 (b) SELF-CREATED MUSICAL WORKS.—Section
8 1221(b) is amended by striking paragraph (3).

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to dispositions after December 31,
11 2014.

12 **SEC. 3138. REPEAL OF SPECIAL RULE FOR SALE OR EX-**
13 **CHANGE OF PATENTS.**

14 (a) IN GENERAL.—Part IV of subchapter P of chap-
15 ter 1 is amended by striking section 1235 (and by striking
16 the item relating to such section in the table of sections
17 of such part).

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 483(d) is amended by striking para-
20 graph (4).

21 (2)(A) Section 871(a)(1), as amended by the
22 preceding provisions of this Act, is amended by
23 striking subparagraph (B) and by redesignating sub-
24 paragraphs (C) and (D) as subparagraphs (B) and
25 (C), respectively.

1 (B) Section 871(g)(3) is amended by striking
2 “(a)(1)(C)” and inserting “(a)(1)(B)”.

3 (C) Subsections (h)(1) and (i)(1) of section 871
4 are each amended by striking “(1)(C)” and inserting
5 “(1)(B)”.

6 (D) Section 1441, as amended by the preceding
7 provisions of this Act, is amended—

8 (i) in subsections (b) and (c)(8), by strik-
9 ing “871(a)(1)(C)” and inserting
10 “871(a)(1)(B)”, and

11 (ii) in subsections (b) and (c)(5), by strik-
12 ing “871(a)(1)(D)” and inserting
13 “871(a)(1)(C)”.

14 (E) Section 1442(a), as amended by the pre-
15 ceding provisions of this Act, is amended—

16 (i) by striking “871(a)(1)(C) and (D)” and
17 inserting “871(a)(1)(B) and (C)”, and

18 (ii) by striking “871(a)(1)(D)” and insert-
19 ing “871(a)(1)(C)”.

20 (3) Section 901(l)(5) is amended by striking
21 “without regard to section 1235 or any similar rule”
22 and inserting “without regard to any provision
23 which treats a disposition as a sale or exchange of
24 a capital asset held for more than 1 year or any
25 similar provision”.

1 (4) Section 1274(c)(3) is amended by striking
2 subparagraph (E) and redesignating subparagraph
3 (F) as subparagraph (E).

4 (5) Subsections (b) and (c)(5) of section 1441,
5 as amended by the preceding provisions of this Act,
6 are each amended by striking “gains subject to tax
7 under section 871(a)(1)(C), and gains on transfers
8 described in section 1235 made on or before October
9 4, 1966” and inserting “and gains subject to tax
10 under section 871(a)(1)(C)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to dispositions after December 31,
13 2014.

14 **SEC. 3139. DEPRECIATION RECAPTURE ON GAIN FROM DIS-**
15 **POSITION OF CERTAIN DEPRECIABLE REAL-**
16 **TY.**

17 (a) IN GENERAL.—Subsection (a) of section 1250 is
18 amended to read as follows:

19 “(a) IN GENERAL.—Except as otherwise provided in
20 this section, if section 1250 property is disposed of after
21 December 31, 2014, the amount of gain with respect to
22 such property which is treated as ordinary income shall
23 be an amount equal to the lesser of—

24 “(1) the sum of—

1 “(A) the amount of additional depreciation
2 attributable to periods before January 1, 2015,
3 in respect of such property, and

4 “(B) the amount of depreciation adjust-
5 ments attributable to periods after December
6 31, 2014, in respect of such property, or

7 “(2) the excess of the amount realized (or, in
8 the case of a disposition other than a sale, exchange,
9 or involuntary conversion, the fair market value of
10 such property), over the adjusted basis of such prop-
11 erty.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 267(e)(5)(D)(i) is amended to read
14 as follows:

15 “(i) any interest in—

16 “(I) any section 1250 property
17 with respect to which a mortgage is
18 insured under section 221(d)(3) or
19 236 of the National Housing Act, or
20 housing financed or assisted by direct
21 loan or tax abatement under similar
22 provisions of State or local laws and
23 with respect to which the owner is
24 subject to the restrictions described in
25 section 1039(b)(1)(B) (as in effect on

1 the day before the date of the enact-
2 ment of the Revenue Reconciliation
3 Act of 1990),

4 “(II) dwelling units which, on the
5 average, were held for occupancy by
6 families or individuals eligible to re-
7 ceive subsidies under section 8 of the
8 United States Housing Act of 1937,
9 as amended, or under the provisions
10 of State or local law authorizing simi-
11 lar levels of subsidy for lower-income
12 families,

13 “(III) any section 1250 property
14 with respect to which a depreciation
15 deduction for rehabilitation expendi-
16 tures was allowed under section
17 167(k), or

18 “(IV) any section 1250 property
19 with respect to which a loan is made
20 or insured under title V of the Hous-
21 ing Act of 1949, and”.

22 (2) Section 1250(b) is amended by striking
23 paragraph (4) and by redesignating paragraph (5)
24 as paragraph (4).

1 (3) Section 1250(e) is amended by striking
2 “For purposes of this section” and inserting “For
3 purposes of this title”

4 (4)(A) Section 1250(d)(5)(B)(i) is amended by
5 striking “and the applicable percentage for the prop-
6 erty had been 100 percent”.

7 (B) Section 1250(d)(5)(B)(ii) is amended to
8 read as follows:

9 “(ii) the amount of such gain (if any)
10 to which section 751(b) applied.”.

11 (5) Section 1250(d) is amended by striking
12 paragraph (7).

13 (6) Section 1250 is amended by striking sub-
14 sections (e) and (f) and by redesignating subsections
15 (g) and (h) as subsections (e) and (f), respectively.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to dispositions after December 31,
18 2014.

19 **SEC. 3140. COMMON DEDUCTION CONFORMING AMEND-**
20 **MENTS.**

21 (a) IN GENERAL.—

22 (1) Section 1245(a)(2)(C) is amended by strik-
23 ing “section 179,” and all that follows through “or
24 194” and inserting “section 179 or (as in effect be-
25 fore repeal by the Tax Reform Act of 2014) section

1 179A, 179B, 179C, 179D, 179E, 181, 190, 193, or
2 194,”

3 (2) Section 1245(a)(3)(C) is amended by strik-
4 ing “section 169” and all that follows through “or
5 194” and inserting “section 179, 185, 188 (as in ef-
6 fect before its repeal by the Revenue Reconciliation
7 Act of 1990), or (as in effect before repeal by the
8 Tax Reform Act of 2014) section 169, 179A, 179B,
9 179C, 179D, 179E, 190, 193, or 194”.

10 (3) Section 263(a)(1) is amended by striking
11 subparagraphs (C), (D), (F), (H), (I), (J), (K), and
12 (L) and by redesignating subparagraphs (E) and
13 (G) as subparagraphs (C) and (D), respectively.

14 (4) Section 280C, as amended by the preceding
15 provisions of this Act, is amended by redesignating
16 subsections (c) and (g) as subsections (b) and (c),
17 respectively.

18 (b) EFFECTIVE DATE.—Each portion of each amend-
19 ment made by this section shall take effect as if included
20 in the provision of this subtitle to which such portion re-
21 lates.

1 **Subtitle C—Reform of Business**
2 **Credits**

3 **SEC. 3201. REPEAL OF CREDIT FOR ALCOHOL, ETC., USED**
4 **AS FUEL.**

5 (a) IN GENERAL.—Subpart D of part IV of sub-
6 chapter A of chapter 1 is amended by striking section 40
7 (and by striking the item relating to such section in the
8 table of sections for such subpart).

9 (b) REPEAL OF CORRESPONDING EXCISE TAX CRED-
10 ITS.—

11 (1) CREDIT.—Subchapter B of chapter 65 is
12 amended by striking section 6426 (and by striking
13 the item relating to such section in the table of sec-
14 tions for such subchapter).

15 (2) PAYMENT.—Section 6427 is amended by
16 striking subsection (e).

17 (c) CONFORMING AMENDMENTS.—

18 (1) Section 38(b) is amended by striking para-
19 graph (3).

20 (2) Section 6416(a)(4)(C) is amended—

21 (A) by striking “section 6427(i)(4)” and
22 inserting “section 6427(i)(3)”, and

23 (B) by striking “section 6427(i)(3)(B)”
24 and inserting “subparagraph (B) thereof”.

1 (3) Section 6427(i) is amended by striking
2 paragraph (3) and by redesignating paragraph (4)
3 as paragraph (3).

4 (4) Section 6427(i)(3), as redesignated by para-
5 graph (2), is amended—

6 (A) by striking the sentence at the end of
7 subparagraph (A),

8 (B) by redesignating subparagraph (B) as
9 subparagraph (C), and

10 (C) by inserting after subparagraph (A)
11 the following new subparagraph:

12 “(B) PAYMENT OF CLAIM.—Notwith-
13 standing subsection (l)(1), if the Secretary has
14 not paid pursuant to a claim filed under sub-
15 section (b)(4), (l)(4)(C)(ii), or (l)(5) within 45
16 days of the date of the filing of such claim (20
17 days in the case of an electronic claim), the
18 claim shall be paid with interest from such date
19 determined by using the overpayment rate and
20 method under section 6621.”.

21 (5) Subpart B of part III of subchapter A of
22 chapter 32 is amended by striking section 4104 (and
23 by striking the item relating to such section in the
24 table of sections for such subpart).

1 (6) Section 6501(m) is amended by striking
2 “40(f),”.

3 (7) Section 9503(b)(1) is amended by striking
4 the second sentence.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to fuels sold or used after Decem-
7 ber 31, 2013.

8 **SEC. 3202. REPEAL OF CREDIT FOR BIODIESEL AND RE-**
9 **NEWABLE DIESEL USED AS FUEL.**

10 (a) IN GENERAL.—Subpart D of part IV of sub-
11 chapter A of chapter 1 is amended by striking section 40A
12 (and by striking the item relating to such section in the
13 table of sections for such subpart).

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 38(b) is amended by striking para-
16 graph (17).

17 (2) Part II of subchapter B of chapter 1 is
18 amended by striking section 87 (and by striking the
19 item relating to such section in the table of sections
20 for such subpart).

21 (3) Section 4101(a)(1) is amended by striking
22 “, every person producing” and all that follows
23 through “section 40(b)(6)(E)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to fuels sold or used after Decem-
3 ber 31, 2013.

4 **SEC. 3203. RESEARCH CREDIT MODIFIED AND MADE PER-**
5 **MANENT.**

6 (a) PERMANENT SIMPLIFICATION OF INCREMENTAL
7 RESEARCH CREDIT AND ELIMINATION OF CREDIT FOR
8 ENERGY RESEARCH CONSORTIUM PAYMENTS.—

9 (1) IN GENERAL.—Subsection (a) of section 41
10 is amended to read as follows:

11 “(a) IN GENERAL.—For purposes of section 38, the
12 research credit determined under this section for the tax-
13 able year shall be an amount equal to the sum of—

14 “(1) 15 percent of so much of the qualified re-
15 search expenses for the taxable year as exceeds 50
16 percent of the average qualified research expenses
17 for the 3 taxable years preceding the taxable year
18 for which the credit is being determined, plus

19 “(2) 15 percent of so much of the basic re-
20 search payments for the taxable year as exceeds 50
21 percent of the average basic research payments for
22 the 3 taxable years preceding the taxable year for
23 which the credit is being determined.”.

24 (2) REPEAL OF TERMINATION.—Section 41 is
25 amended by striking subsection (h).

1 (3) CONFORMING AMENDMENTS.—

2 (A) Subsection (c) of section 41 is amend-
3 ed to read as follows:

4 “(c) DETERMINATION OF AVERAGE RESEARCH EX-
5 PENSES FOR PRIOR YEARS.—

6 “(1) SPECIAL RULE IN CASE OF NO QUALIFIED
7 RESEARCH EXPENDITURES IN ANY OF 3 PRECEDING
8 TAXABLE YEARS.—In any case in which the taxpayer
9 has no qualified research expenses in any one of the
10 3 taxable years preceding the taxable year for which
11 the credit is being determined, the amount deter-
12 mined under subsection (a)(1) for such taxable year
13 shall be equal to 10 percent of the qualified research
14 expenses for the taxable year.

15 “(2) CONSISTENT TREATMENT OF EX-
16 PENSES.—

17 “(A) IN GENERAL.—Notwithstanding
18 whether the period for filing a claim for credit
19 or refund has expired for any taxable year
20 taken into account in determining the average
21 qualified research expenses, or average basic re-
22 search payments, taken into account under sub-
23 section (a), the qualified research expenses and
24 basic research payments taken into account in
25 determining such averages shall be determined

1 on a basis consistent with the determination of
2 qualified research expenses and basic research
3 payments, respectively, for the credit year.

4 “(B) PREVENTION OF DISTORTIONS.—The
5 Secretary may prescribe regulations to prevent
6 distortions in calculating a taxpayer’s qualified
7 research expenses or basic research payments
8 caused by a change in accounting methods used
9 by such taxpayer between the current year and
10 a year taken into account in determining the
11 average qualified research expenses or average
12 basic research payments taken into account
13 under subsection (a).”.

14 (B) Section 41(e) is amended—

15 (i) by striking all that precedes para-
16 graph (6) and inserting the following:

17 “(e) BASIC RESEARCH PAYMENTS.—For purposes of
18 this section—

19 “(1) IN GENERAL.—The term ‘basic research
20 payment’ means, with respect to any taxable year,
21 any amount paid in cash during such taxable year
22 by a corporation to any qualified organization for
23 basic research but only if—

1 “(A) such payment is pursuant to a writ-
2 ten agreement between such corporation and
3 such qualified organization, and

4 “(B) such basic research is to be per-
5 formed by such qualified organization.

6 “(2) EXCEPTION TO REQUIREMENT THAT RE-
7 SEARCH BE PERFORMED BY THE ORGANIZATION.—
8 In the case of a qualified organization described in
9 subparagraph (C) or (D) of paragraph (3), subpara-
10 graph (B) of paragraph (1) shall not apply.”,

11 (ii) by redesignating paragraphs (6)
12 and (7) as paragraphs (3) and (4), respec-
13 tively, and

14 (iii) in paragraph (4) as so redesign-
15 ated, by striking subparagraphs (B) and
16 (C) and by redesignating subparagraphs
17 (D) and (E) as subparagraphs (B) and
18 (C), respectively.

19 (C)(i) Section 41(f)(1) is amended by
20 striking “, basic research payments, and
21 amounts paid or incurred to energy research
22 consortiums,” in subparagraphs (A)(ii) and
23 (B)(ii) and inserting “and basic research pay-
24 ments”.

1 (ii) Section 41(f) is amended by striking
2 paragraph (6).

3 (4) EFFECTIVE DATE.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), the amendments made by
6 this subsection shall apply to taxable years be-
7 ginning after December 31, 2013.

8 (B) PARAGRAPH (2).—The amendment
9 made by paragraph (2) shall apply to amounts
10 paid or incurred after December 31, 2013.

11 (b) OTHER REFORMS.—

12 (1) ELIMINATION OF CREDIT FOR COMPUTER
13 SOFTWARE.—Subparagraph (E) of section 41(d)(4)
14 is amended—

15 (A) by striking “Except to the extent pro-
16 vided in regulations, any research” and insert-
17 ing “Any research”, and

18 (B) by striking “which is developed by”
19 and all that follows through the end and insert-
20 ing a period.

21 (2) ELIMINATION OF INCREASED CREDIT FOR
22 AMOUNTS PAID TO CERTAIN ENTITIES.—Paragraph
23 (3) of section 41(b) is amended by striking subpara-
24 graphs (C) and (D).

1 (3) ELIMINATION OF CREDIT FOR SUPPLIES.—
2 Subparagraph (A) of section 41(b)(2) is amended by
3 inserting “and” at the end of clause (i), by striking
4 clause (ii), and by redesignating clause (iii) as clause
5 (ii).

6 (4) ELIMINATION OF ELECTION OF REDUCED
7 CREDIT.—Section 280C(c) is amended by striking
8 paragraphs (3) and (4).

9 (5) CONFORMING AMENDMENTS.—

10 (A) The second sentence of section
11 41(b)(2)(A) is amended by striking “Clause
12 (iii)” and inserting “Clause (ii)”.

13 (B) Section 41(b)(2) is amended by strik-
14 ing subparagraph (C) and by redesignating sub-
15 paragraph (D) as subparagraph (C).

16 (C) Section 41(d)(2)(B) is amended by
17 striking “, computer software”.

18 (6) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to taxable years begin-
20 ning after December 31, 2013.

21 **SEC. 3204. LOW-INCOME HOUSING TAX CREDIT.**

22 (a) REFORM OF LIMITATION AND ALLOCATION
23 RULES.—

24 (1) ALLOCATIONS OF ELIGIBLE BASIS AMOUNTS
25 RATHER THAN CREDIT AMOUNTS; ELIMINATION OF

1 NATIONAL REALLOCATIONS.—Subsection (h) of sec-
2 tion 42 is amended to read as follows:

3 “(h) LIMITATION ON QUALIFIED BASIS WITH RE-
4 SPECT TO PROJECTS LOCATED IN A STATE.—

5 “(1) QUALIFIED BASIS MAY NOT EXCEED LIM-
6 TATION AMOUNT ALLOCATED TO BUILDING.—

7 “(A) IN GENERAL.—The qualified basis of
8 any building which is taken into account under
9 subsection (a) for any taxable year shall not ex-
10 ceed the limitation amount allocated to such
11 building under this subsection.

12 “(B) TIME FOR MAKING ALLOCATION.—
13 Except in the case of an allocation which meets
14 the requirements of subparagraph (C), (D),
15 (E), or (F), an allocation shall be taken into ac-
16 count under subparagraph (A) only if it is
17 made not later than the close of the calendar
18 year in which the building is placed in service.

19 “(C) EXCEPTION WHERE BINDING COM-
20 MITMENT.—An allocation meets the require-
21 ments of this subparagraph if there is a binding
22 commitment (not later than the close of the cal-
23 endar year in which the building is placed in
24 service) by the housing credit agency to allocate

1 a specified limitation amount to such building
2 beginning in a specified later taxable year.

3 “(D) EXCEPTION WHERE INCREASE IN
4 QUALIFIED BASIS.—

5 “(i) IN GENERAL.—An allocation
6 meets the requirements of this subpara-
7 graph if such allocation is made not later
8 than the close of the calendar year in
9 which ends the taxable year to which it will
10 1st apply but only to the extent the
11 amount of such allocation does not exceed
12 the limitation under clause (ii).

13 “(ii) LIMITATION.—The limitation
14 under this clause is the excess of—

15 “(I) the qualified basis of such
16 building as of the close of the 1st tax-
17 able year to which such allocation will
18 apply, over

19 “(II) the qualified basis of such
20 building as of the close of the 1st tax-
21 able year to which the most recent
22 prior allocation with respect to such
23 building applied.

24 “(iii) HOUSING CREDIT BASIS LIMITA-
25 TION REDUCED BY FULL ALLOCATION.—

1 Notwithstanding clause (i), the full amount
2 of the allocation shall be taken into ac-
3 count under paragraph (2).

4 “(E) EXCEPTION WHERE 10 PERCENT OF
5 COST INCURRED.—

6 “(i) IN GENERAL.—An allocation
7 meets the requirements of this subpara-
8 graph if such allocation is made with re-
9 spect to a qualified building which is
10 placed in service not later than the close of
11 the second calendar year following the cal-
12 endar year in which the allocation is made.

13 “(ii) QUALIFIED BUILDING.—For pur-
14 poses of clause (i), the term ‘qualified
15 building’ means any building which is part
16 of a project if the taxpayer’s basis in such
17 project (as of the date which is 1 year
18 after the date that the allocation was
19 made) is more than 10 percent of the tax-
20 payer’s reasonably expected basis in such
21 project (as of the close of the second cal-
22 endar year referred to in clause (i)). Such
23 term does not include any existing building
24 unless a credit is allowable under sub-
25 section (e) for rehabilitation expenditures

1 paid or incurred by the taxpayer with re-
2 spect to such building for a taxable year
3 ending during the second calendar year re-
4 ferred to in clause (i) or the prior taxable
5 year.

6 “(F) ALLOCATION OF CREDIT ON A
7 PROJECT BASIS.—

8 “(i) IN GENERAL.—In the case of a
9 project which includes (or will include)
10 more than 1 building, an allocation meets
11 the requirements of this subparagraph if—

12 “(I) the allocation is made to the
13 project for a calendar year during the
14 project period,

15 “(II) the allocation only applies
16 to buildings placed in service during
17 or after the calendar year for which
18 the allocation is made, and

19 “(III) the portion of such alloca-
20 tion which is allocated to any building
21 in such project is specified not later
22 than the close of the calendar year in
23 which the building is placed in service.

1 “(ii) PROJECT PERIOD.—For pur-
2 poses of clause (i), the term ‘project pe-
3 riod’ means the period—

4 “(I) beginning with the 1st cal-
5 endar year for which an allocation
6 may be made for the 1st building
7 placed in service as part of such
8 project, and

9 “(II) ending with the calendar
10 year the last building is placed in
11 service as part of such project.

12 “(2) ALLOCATED LIMITATION AMOUNT TO
13 APPLY TO ALL TAXABLE YEARS ENDING DURING OR
14 AFTER ALLOCATION YEAR.—Any limitation amount
15 allocated to any building for any calendar year—

16 “(A) shall apply to such building for all
17 taxable years in the compliance period ending
18 during or after such calendar year, and

19 “(B) shall reduce the aggregate limitation
20 amount of the allocating agency only for such
21 calendar year.

22 “(3) LIMITATION AMOUNT FOR AGENCIES.—

23 “(A) IN GENERAL.—The limitation amount
24 which a housing credit agency may allocate for
25 any calendar year is the portion of the State

1 limitation allocated under this paragraph for
2 such calendar year to such agency.

3 “(B) STATE LIMITATION INITIALLY ALLO-
4 CATED TO STATE HOUSING CREDIT AGEN-
5 CIES.—Except as provided in subparagraph
6 (F), the State limitation for each calendar year
7 shall be allocated to the housing credit agency
8 of such State. If there is more than 1 housing
9 credit agency of a State, all such agencies shall
10 be treated as a single agency.

11 “(C) STATE LIMITATION.—The State limi-
12 tation applicable to any State for any calendar
13 year shall be an amount equal to the sum of—

14 “(i) the unused State limitation (if
15 any) of such State for the preceding cal-
16 endar year,

17 “(ii) the greater of—

18 “(I) \$31.20 multiplied by the
19 State population, or

20 “(II) \$36,300,000, plus

21 “(iii) the amount of State limitation
22 returned in the calendar year.

23 “(D) UNUSED STATE LIMITATION.—For
24 purposes of subparagraph (C)(i), the unused
25 State limitation for any calendar year is the ex-

1 cess (if any) of the sum of the amounts de-
2 scribed in clauses (ii) and (iii) of subparagraph
3 (C) over the aggregate limitation amount allo-
4 cated for such year.

5 “(E) STATE LIMITATION RETURNED IN
6 THE CALENDAR YEAR.—For purposes of sub-
7 paragraph (C)(iii), the amount of State limita-
8 tion returned in the calendar year equals the
9 limitation amount previously allocated within
10 the State to any project—

11 “(i) which fails to meet the 10 percent
12 test under paragraph (1)(E)(ii) on a date
13 after the close of the calendar year in
14 which the allocation was made,

15 “(ii) which does not become a quali-
16 fied low-income housing project within the
17 period required by this section or the terms
18 of the allocation, or

19 “(iii) with respect to which an alloca-
20 tion is cancelled by mutual consent of the
21 housing credit agency and the allocation
22 recipient.

23 “(F) STATE MAY PROVIDE FOR DIF-
24 FERENT ALLOCATION.—For purposes of this
25 paragraph, a State may by law provide (or a

1 Governor of a State may proclaim) a different
2 formula for allocating the State limitation
3 among the State housing credit agencies in
4 such State.

5 “(G) POPULATION.—For purposes of this
6 paragraph, determinations of the population of
7 any State shall be made with respect to any cal-
8 endar year on the basis of the most recent cen-
9 sus estimate of the resident population of such
10 State released by the Bureau of Census before
11 the beginning of such calendar year.

12 “(H) COST-OF-LIVING ADJUSTMENT.—

13 “(i) IN GENERAL.—In the case of a
14 calendar year after 2015, the dollar
15 amounts in subparagraph (C)(ii) shall each
16 be increased by an amount equal to—

17 “(I) such dollar amount, multi-
18 plied by

19 “(II) the cost-of-living adjust-
20 ment determined under section
21 1(c)(2)(A) for such calendar year, de-
22 termined by substituting ‘calendar
23 year 2014’ for ‘calendar year 2012’ in
24 clause (ii) thereof.

25 “(ii) ROUNDING.—

1 “(I) In the case of the dollar
2 amount in subparagraph (C)(ii)(I),
3 any increase under clause (i) which is
4 not a multiple of 20 cents shall be
5 rounded to the next lowest multiple of
6 20 cents.

7 “(II) In the case of the dollar
8 amount in subparagraph (C)(ii)(II),
9 any increase under clause (i) which is
10 not a multiple of \$100,000 shall be
11 rounded to the next lowest multiple of
12 \$100,000.

13 “(4) PORTION OF STATE LIMITATION SET-
14 ASIDE FOR CERTAIN PROJECTS INVOLVING QUALI-
15 FIED NONPROFIT ORGANIZATIONS.—

16 “(A) IN GENERAL.—Not more than 90
17 percent of the State limitation for any State for
18 any calendar year shall be allocated to projects
19 other than qualified low-income housing
20 projects described in subparagraph (B).

21 “(B) PROJECTS INVOLVING QUALIFIED
22 NONPROFIT ORGANIZATIONS.—For purposes of
23 subparagraph (A), a qualified low-income hous-
24 ing project is described in this subparagraph if
25 a qualified nonprofit organization is to own an

1 interest in the project (directly or through a
2 partnership) and materially participate (within
3 the meaning of section 469(h)) in the develop-
4 ment and operation of the project throughout
5 the credit period.

6 “(C) QUALIFIED NONPROFIT ORGANIZA-
7 TION.—For purposes of this paragraph, the
8 term ‘qualified nonprofit organization’ means
9 any organization if—

10 “(i) such organization is described in
11 paragraph (3) or (4) of section 501(c) and
12 is exempt from tax under section 501(a),

13 “(ii) such organization is determined
14 by the State housing credit agency not to
15 be affiliated with or controlled by a for-
16 profit organization; and

17 “(iii) 1 of the exempt purposes of
18 such organization includes the fostering of
19 low-income housing.

20 “(D) TREATMENT OF CERTAIN SUBSIDI-
21 ARIES.—

22 “(i) IN GENERAL.—For purposes of
23 this paragraph, a qualified nonprofit orga-
24 nization shall be treated as satisfying the
25 ownership and material participation test

1 of subparagraph (B) if any qualified cor-
2 poration in which such organization holds
3 stock satisfies such test.

4 “(ii) QUALIFIED CORPORATION.—For
5 purposes of clause (i), the term ‘qualified
6 corporation’ means any corporation if 100
7 percent of the stock of such corporation is
8 held by 1 or more qualified nonprofit orga-
9 nizations at all times during the period
10 such corporation is in existence.

11 “(E) STATE MAY NOT OVERRIDE SET-
12 ASIDE.—Nothing in subparagraph (F) of para-
13 graph (3) shall be construed to permit a State
14 not to comply with subparagraph (A) of this
15 paragraph.

16 “(5) BUILDINGS ELIGIBLE FOR CREDIT ONLY
17 IF MINIMUM LONG-TERM COMMITMENT TO LOW-IN-
18 COME HOUSING.—

19 “(A) IN GENERAL.—No credit shall be al-
20 lowed by reason of this section with respect to
21 any building for the taxable year unless an ex-
22 tended low-income housing commitment is in ef-
23 fect as of the end of such taxable year.

24 “(B) EXTENDED LOW-INCOME HOUSING
25 COMMITMENT.—For purposes of this para-

1 graph, the term ‘extended low-income housing
2 commitment’ means any agreement between the
3 taxpayer and the housing credit agency—

4 “(i) which requires that the applicable
5 fraction (as defined in subsection (c)(1))
6 for the building for each taxable year in
7 the extended use period will not be less
8 than the applicable fraction specified in
9 such agreement and which prohibits the
10 actions described in subclauses (I) and (II)
11 of subparagraph (E)(ii),

12 “(ii) which allows individuals who
13 meet the income limitation applicable to
14 the building under subsection (g) (whether
15 prospective, present, or former occupants
16 of the building) the right to enforce in any
17 State court the requirement and prohibi-
18 tions of clause (i),

19 “(iii) which prohibits the disposition
20 to any person of any portion of the build-
21 ing to which such agreement applies unless
22 all of the building to which such agreement
23 applies is disposed of to such person,

24 “(iv) which prohibits the refusal to
25 lease to a holder of a voucher or certificate

1 of eligibility under section 8 of the United
2 States Housing Act of 1937 because of the
3 status of the prospective tenant as such a
4 holder,

5 “(v) which is binding on all successors
6 of the taxpayer, and

7 “(vi) which, with respect to the prop-
8 erty, is recorded pursuant to State law as
9 a restrictive covenant.

10 “(C) ALLOCATION OF LIMITATION AMOUNT
11 MAY NOT EXCEED AMOUNT NECESSARY TO SUP-
12 PORT COMMITMENT.—The limitation amount
13 allocated to any building may not exceed the
14 amount necessary to support the applicable
15 fraction specified in the extended low-income
16 housing commitment for such building.

17 “(D) EXTENDED USE PERIOD.—For pur-
18 poses of this paragraph, the term ‘extended use
19 period’ means the period—

20 “(i) beginning on the 1st day in the
21 credit period on which such building is
22 part of a qualified low-income housing
23 project, and

24 “(ii) ending on the later of—

1 “(I) the date specified by such
2 agency in such agreement, or

3 “(II) the date which is 15 years
4 after the close of the credit period.

5 “(E) EXCEPTIONS IF FORECLOSURE OR IF
6 NO BUYER WILLING TO MAINTAIN LOW-INCOME
7 STATUS.—

8 “(i) IN GENERAL.—The extended use
9 period for any building shall terminate—

10 “(I) on the date the building is
11 acquired by foreclosure (or instrument
12 in lieu of foreclosure) unless the Sec-
13 retary determines that such acquisi-
14 tion is part of an arrangement with
15 the taxpayer a purpose of which is to
16 terminate such period, or

17 “(II) on the last day of the pe-
18 riod specified in subparagraph (I) if
19 the housing credit agency is unable to
20 present during such period a qualified
21 contract for the acquisition of the low-
22 income portion of the building by any
23 person who will continue to operate
24 such portion as a qualified low-income
25 building.

1 Subclause (II) shall not apply to the extent
2 more stringent requirements are provided
3 in the agreement or in State law.

4 “(ii) EVICTION, ETC., OF EXISTING
5 LOW-INCOME TENANTS NOT PERMITTED.—
6 The termination of an extended use period
7 under clause (i) shall not be construed to
8 permit before the close of the 3-year period
9 following such termination—

10 “(I) the eviction or the termi-
11 nation of tenancy (other than for good
12 cause) of an existing tenant of any
13 low-income unit, or

14 “(II) any increase in the gross
15 rent with respect to such unit not oth-
16 erwise permitted under this section.

17 “(F) QUALIFIED CONTRACT.—For pur-
18 poses of subparagraph (E), the term ‘qualified
19 contract’ means a bona fide contract to acquire
20 (within a reasonable period after the contract is
21 entered into) the nonlow-income portion of the
22 building for fair market value and the low-in-
23 come portion of the building for an amount not
24 less than the applicable fraction (specified in

1 the extended low-income housing commitment)
2 of—

3 “(i) the sum of—

4 “(I) the outstanding indebtedness
5 secured by, or with respect to, the
6 building,

7 “(II) the adjusted investor equity
8 in the building, plus

9 “(III) other capital contributions
10 not reflected in the amounts described
11 in subclause (I) or (II), reduced by

12 “(ii) cash distributions from (or avail-
13 able for distribution from) the project.

14 The Secretary shall prescribe such regulations
15 as may be necessary or appropriate to carry out
16 this paragraph, including regulations to prevent
17 the manipulation of the amount determined
18 under the preceding sentence.

19 “(G) ADJUSTED INVESTOR EQUITY.—

20 “(i) IN GENERAL.—For purposes of
21 subparagraph (F), the term ‘adjusted in-
22 vestor equity’ means, with respect to any
23 calendar year, the aggregate amount of
24 cash taxpayers invested with respect to the
25 project increased by the amount equal to—

1 “(I) such amount, multiplied by
2 “(II) the cost-of-living adjust-
3 ment for such calendar year, deter-
4 mined under section 1(c)(2)(A) by
5 substituting the base calendar year
6 for ‘calendar year 2012’ in clause (ii)
7 thereof.

8 An amount shall be taken into account as
9 an investment in the project only to the ex-
10 tent there was an obligation to invest such
11 amount as of the beginning of the credit
12 period and to the extent such amount is
13 reflected in the adjusted basis of the
14 project.

15 “(ii) COST-OF-LIVING INCREASES IN
16 EXCESS OF 5 PERCENT NOT TAKEN INTO
17 ACCOUNT.—Under regulations prescribed
18 by the Secretary, if the C-CPI-U for any
19 calendar year (within the meaning of sec-
20 tion 1(c)) exceeds the C-CPI-U for the pre-
21 ceding calendar year by more than 5 per-
22 cent, the C-CPI-U for the base calendar
23 year shall be increased such that such ex-
24 cess shall never be taken into account
25 under clause (i).

1 “(iii) BASE CALENDAR YEAR.—For
2 purposes of this subparagraph, the term
3 ‘base calendar year’ means the calendar
4 year with or within which the 1st taxable
5 year of the credit period ends.

6 “(H) LOW-INCOME PORTION.—For pur-
7 poses of this paragraph, the low-income portion
8 of a building is the portion of such building
9 equal to the applicable fraction specified in the
10 extended low-income housing commitment for
11 the building.

12 “(I) PERIOD FOR FINDING BUYER.—The
13 period referred to in this subparagraph is the 1-
14 year period beginning on the date (after the
15 14th year of the credit period) the taxpayer
16 submits a written request to the housing credit
17 agency to find a person to acquire the tax-
18 payer’s interest in the low-income portion of the
19 building.

20 “(J) EFFECT OF NONCOMPLIANCE.—If,
21 during a taxable year, there is a determination
22 that an extended low-income housing agreement
23 was not in effect as of the beginning of such
24 year, such determination shall not apply to any
25 period before such year and subparagraph (A)

1 shall be applied without regard to such deter-
2 mination if the failure is corrected within 1
3 year from the date of the determination.

4 “(K) PROJECTS WHICH CONSIST OF MORE
5 THAN 1 BUILDING.—The application of this
6 paragraph to projects which consist of more
7 than 1 building shall be made under regulations
8 prescribed by the Secretary.

9 “(6) SPECIAL RULES.—

10 “(A) BUILDING MUST BE LOCATED WITH-
11 IN JURISDICTION OF CREDIT AGENCY.—A hous-
12 ing credit agency may allocate its limitation
13 amount only to buildings located in the jurisdic-
14 tion of the governmental unit of which such
15 agency is a part.

16 “(B) AGENCY ALLOCATIONS IN EXCESS OF
17 LIMIT.—If the limitation amounts allocated by
18 a housing credit agency for any calendar year
19 exceed the portion of the State limitation allo-
20 cated to such agency for such calendar year, the
21 limitation amounts so allocated shall be reduced
22 (to the extent of such excess) for buildings in
23 the reverse of the order in which the allocations
24 of such amounts were made.

1 “(C) CREDIT REDUCED IF CREDIT IS LESS
2 THAN CREDIT WHICH WOULD BE ALLOWABLE
3 WITHOUT REGARD TO PLACED IN SERVICE CON-
4 VENTION, ETC.—

5 “(i) IN GENERAL.—The amount of
6 the credit determined under this section
7 with respect to any building shall not ex-
8 ceed the clause (ii) percentage of the
9 amount of the credit which would (but for
10 this subparagraph) be determined under
11 this section with respect to such building.

12 “(ii) DETERMINATION OF PERCENT-
13 AGE.—For purposes of clause (i), the
14 clause (ii) percentage with respect to any
15 building is the percentage which—

16 “(I) the credit amount which
17 would be determined under this sec-
18 tion with respect to the building if the
19 limitation amount allocated to such
20 building were equal to the qualified
21 basis of such building, bears to

22 “(II) the credit amount deter-
23 mined in accordance with clause (iii).

24 “(iii) DETERMINATION OF CREDIT
25 AMOUNT.—The credit amount determined

1 in accordance with this clause is the
2 amount of the credit which would (but for
3 this subparagraph) be determined under
4 this section with respect to the building if
5 this section were applied without regard to
6 subsection (f)(2)(A).

7 “(7) OTHER DEFINITIONS.—For purposes of
8 this subsection—

9 “(A) HOUSING CREDIT AGENCY.—The
10 term ‘housing credit agency’ means any agency
11 authorized to carry out this subsection.

12 “(B) POSSESSIONS TREATED AS STATES.—
13 The term ‘State’ includes a possession of the
14 United States.”.

15 (2) CONFORMING AMENDMENTS.—

16 (A) Section 42(f) is amended by striking
17 paragraph (3).

18 (B) Section 42(i)(3)(B)(iii)(II) is amended
19 by striking “subsection (h)(5)” and inserting
20 “subsection (h)(4)”.

21 (C) Section 42(i)(7)(A) is amended by
22 striking “subsection (h)(5)(C)” and inserting
23 “subsection (h)(4)(C)”.

24 (D) Section 42(i)(8) is amended by strik-
25 ing the last sentence.

1 (E) Section 42(i) is amended by striking
2 paragraph (9).

3 (F) Section 42(k)(2)(A) is amended by
4 striking “subsection (h)(5)” and inserting “sub-
5 section (h)(4)”.

6 (G) Section 42(l)(3) is amended by strik-
7 ing “housing credit amount” both places it ap-
8 pears and inserting “limitation amount”.

9 (H) Section 42(m)(1)(A) is amended by
10 striking “housing credit dollar amount” both
11 places it appears and inserting “limitation
12 amount”.

13 (I) Section 42(m)(1)(B)(ii) is amended by
14 striking “housing credit dollar amounts” and
15 inserting “limitation amounts”.

16 (J) Section 42(m)(1) is amended by strik-
17 ing subparagraph (D).

18 (K) Subparagraphs (A), (B)(iii), (C)(i)(I),
19 and (C)(i)(II) of section 42(m)(2) are each
20 amended by striking “housing credit dollar
21 amount” and inserting “limitation amount”.

22 (L) Section 42(m)(2) is amended by strik-
23 ing subparagraph (D).

24 (b) 15-YEAR CREDIT PERIOD.—

1 (1) IN GENERAL.—Section 42(f)(1) is amended
2 by striking “10 taxable years” and inserting “15
3 taxable years”.

4 (2) REPEAL OF RECAPTURE.—Section 42 is
5 amended by striking subsection (j).

6 (3) CONFORMING AMENDMENTS.—

7 (A) Section 42(d)(7) is amended—

8 (i) by striking “COMPLIANCE PERIOD”
9 in the heading thereof and inserting
10 “CREDIT PERIOD”, and

11 (ii) by striking “compliance period” in
12 subparagraph (B)(ii) and inserting “credit
13 period”.

14 (B) Section 42(f)(4) is amended by strik-
15 ing the last sentence thereof.

16 (C) Section 42(i) is amended by striking
17 paragraph (1).

18 (D) Section 42(i)(6) is amended by strik-
19 ing “and any increase in tax under subsection
20 (j)”.

21 (E) Section 42(k)(4)(C) is amended to
22 read as follows:

23 “(C) SPECIAL RULES.—

24 “(i) TAX BENEFIT RULE.—The tax
25 for the taxable year shall be increased

1 under subparagraph (A) only with respect
2 to credits allowed by reason of this section
3 which were used to reduce tax liability. In
4 the case of credits not so used to reduce
5 tax liability, the carryforwards and
6 carrybacks under section 39 shall be ap-
7 propriately adjusted.

8 “(ii) NO CREDITS AGAINST TAX.—Any
9 increase in tax under this paragraph shall
10 not be treated as a tax imposed by this
11 chapter for purposes of determining the
12 amount of any credit under this chapter.”.

13 (c) DETERMINATION OF APPLICABLE PERCENT-
14 AGE.—

15 (1) ELIMINATION OF 30 PERCENT CREDIT;
16 MODIFICATION OF DISCOUNT RATE.—Subsection (b)
17 of section 42 is amended to read as follows:

18 “(b) APPLICABLE PERCENTAGE.—

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, the term ‘applicable percentage’ means with re-
21 spect to any building, the appropriate percentage
22 prescribed by the Secretary for the earlier of—

23 “(A) the month in which such building is
24 placed in service, or

1 “(B) at the election of the taxpayer, the
2 month in which the taxpayer and the housing
3 credit agency enter into an agreement with re-
4 spect to such building (which is binding on such
5 agency, the taxpayer, and all successors in in-
6 terest) as to the limitation amount to be allo-
7 cated to such building.

8 A month may be elected under subparagraph (B)
9 only if the election is made not later than the 5th
10 day after the close of such month. Such an election,
11 once made, shall be irrevocable.

12 “(2) METHOD OF PRESCRIBING PERCENT-
13 AGES.—The percentages prescribed by the Secretary
14 for any month shall be percentages which will yield
15 over a 15-year period amounts of credit under sub-
16 section (a) which have a present value equal to 70
17 percent of the qualified basis of the building.

18 “(3) METHOD OF DISCOUNTING.—

19 “(A) IN GENERAL.—The present value
20 under paragraph (2) shall be determined—

21 “(i) as of the last day of the 1st year
22 of the 15-year period referred to in para-
23 graph (2),

24 “(ii) by using a discount rate equal to
25 the applicable discount percentage of the

1 average of the annual Federal mid-term
2 rate and the annual Federal long-term rate
3 applicable under section 1274(d)(1) to the
4 month applicable under subparagraph (A)
5 or (B) of paragraph (1) and compounded
6 annually, and

7 “(iii) by assuming that the credit al-
8 lowable under this section for any year is
9 received on the last day of such year.

10 “(B) APPLICABLE DISCOUNT PERCENT-
11 AGE.—For purposes of this paragraph, the term
12 ‘applicable discount percentage’ means, with re-
13 spect to any month referred to in subparagraph
14 (A)(ii) the number of percentage points by
15 which 100 percent exceeds the highest rate of
16 tax in effect under section 11 for a taxable year
17 which begins in such month.

18 “(4) CROSS REFERENCE.—For treatment of
19 certain rehabilitation expenditures as separate new
20 buildings, see subsection (e).”.

21 (2) EXISTING AND FEDERALLY SUBSIDIZED
22 BUILDINGS INELIGIBLE FOR CREDIT.—Section 42(d)
23 is amended—

24 (A) by striking paragraphs (1), (2), and
25 (6), and redesignating paragraphs (3), (4), (5),

1 and (7) as paragraphs (2), (3), (4), and (5), re-
2 spectively, and

3 (B) by inserting before paragraph (2) (as
4 so redesignated) the following new paragraph:

5 “(1) IN GENERAL.—The eligible basis of any
6 building is—

7 “(A) in the case a new building which is
8 not Federally subsidized for the taxable year,
9 its adjusted basis as of the close of the 1st tax-
10 able year of the credit period, and

11 “(B) zero in any other case.”.

12 (3) CONFORMING AMENDMENTS.—

13 (A) Section 42(e) is amended—

14 (i) in paragraph (2)(B), by striking
15 “paragraph (3) or (4)” and inserting
16 “paragraph (2) or (3)”.

17 (ii) in paragraph (3), by striking sub-
18 paragraph (B) and redesignating subpara-
19 graphs (C) and (D) as subparagraphs (B)
20 and (C), respectively,

21 (iii) in paragraph (4), by striking the
22 last sentence thereof, and

23 (iv) by striking paragraph (5) and re-
24 designating paragraph (6) as paragraph
25 (5).

1 (B) Section 42(f) is amended by striking
2 paragraph (5).

3 (C) Section 42(i)(2)(A) is amended by
4 striking “for purposes of subsection (b)(1),”.

5 (D) Section 42(i)(3) is amended—

6 (i) by striking “(as defined in sub-
7 section (d)(2)(D)(iii))” in subparagraph
8 (C)(ii) and inserting “(within the meaning
9 of subparagraph (F))”, and

10 (ii) by adding at the end the following
11 new subparagraph:

12 “(F) RELATED PERSON.—For purposes of
13 subparagraph (C), a person (hereinafter in this
14 subparagraph referred to as the ‘related per-
15 son’) is related to any person if the related per-
16 son bears a relationship to such person speci-
17 fied in section 267(b) or 707(b)(1), or the re-
18 lated person and such person are engaged in
19 trades or businesses under common control
20 (within the meaning of subsections (a) and (b)
21 of section 52).”.

22 (E) Section 42(i) is amended by striking
23 paragraph (5).

1 (F) Section 42(k)(2)(B) is amended by
2 striking “, except that” and all that follows and
3 inserting a period.

4 (d) REPEAL OF SPECIAL RULES FOR BUILDINGS IN
5 HIGH COST AND DIFFICULT DEVELOPMENT AREAS.—

6 (1) IN GENERAL.—Paragraph (4) of section
7 42(d), as redesignated by subsection (c)(2), is
8 amended to read as follows:

9 “(4) FEDERAL GRANTS NOT TAKEN INTO AC-
10 COUNT IN DETERMINING ELIGIBLE BASIS.—The eli-
11 gible basis of a building shall not include any costs
12 financed with the proceeds of a federally funded
13 grant.”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Paragraph (3) of section 42(d), as re-
16 designating by subsection (c)(2), is amended—

17 (i) by striking “(as defined in para-
18 graph (5)(C))” in subparagraph (C)(i),
19 and

20 (ii) by adding at the end the following
21 new subparagraph:

22 “(E) QUALIFIED CENSUS TRACT.—For
23 purposes of this paragraph—

24 “(i) IN GENERAL.—The term ‘quali-
25 fied census tract’ means any census tract

1 which is designated by the Secretary of
2 Housing and Urban Development and, for
3 the most recent year for which census data
4 are available on household income in such
5 tract, either in which 50 percent or more
6 of the households have an income which is
7 less than 60 percent of the area median
8 gross income for such year or which has a
9 poverty rate of at least 25 percent. If the
10 Secretary of Housing and Urban Develop-
11 ment determines that sufficient data for
12 any period are not available to apply this
13 subparagraph on the basis of census tracts,
14 such Secretary shall apply this subpara-
15 graph for such period on the basis of enu-
16 meration districts.

17 “(ii) LIMIT ON MSA’S DESIGNATED.—
18 The portion of a metropolitan statistical
19 area which may be designated for purposes
20 of this subparagraph shall not exceed an
21 area having 20 percent of the population of
22 such metropolitan statistical area.

23 “(iii) DETERMINATION OF AREAS.—
24 For purposes of this subparagraph, each
25 metropolitan statistical area shall be treat-

1 ed as a separate area and all nonmetropoli-
2 tan areas in a State shall be treated as 1
3 area.”.

4 (B) Clause (i) of section 42(d)(5)(A), as
5 redesignated by subsection (e)(2), is amended
6 to read as follows:

7 “(i) such building shall be treated as
8 a new building, but”.

9 (e) REPEAL OF CERTAIN EXCEPTIONS TO RULES
10 AGAINST PREFERENTIAL TREATMENT.—Section 42(g)(9)
11 is amended—

12 (1) by adding “or” at the end of subparagraph
13 (A), and

14 (2) by striking subparagraphs (B) and (C) and
15 inserting the following new subparagraph:

16 “(B) who are veterans (as defined in sec-
17 tion 101 of title 38, United States Code).”.

18 (f) MODIFICATION OF SELECTION CRITERIA.—Sec-
19 tion 42(m)(1)(C) is amended—

20 (1) by adding “and” at the end of clause (vii),

21 (2) by striking the comma at the end of clause
22 (viii) and inserting a period, and

23 (3) by striking clauses (ix) and (x).

24 (g) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply with respect to State limita-
3 tion amounts determined for calendar years after
4 2014 (and to determinations with respect to alloca-
5 tions of such limitation amounts).

6 (2) TRANSITION RULE.—For purposes of deter-
7 mining the State limitation amount for calendar
8 year 2015 under section 42(h)(3)(C) of the Internal
9 Revenue Code of 1986, as amended by this section,
10 the amount described in clause (i) of such section
11 shall be treated as being equal to the quotient of—

12 (A) the amount which would be described
13 in section 42(h)(3)(C)(i) of such Code (deter-
14 mined without regard to the amendments made
15 by this section), divided by

16 (B) the applicable percentage determined
17 under section 42(b)(1)(B)(i) for December
18 2014 (determined without regard to the amend-
19 ments made by this section).

20 **SEC. 3205. REPEAL OF ENHANCED OIL RECOVERY CREDIT.**

21 (a) IN GENERAL.—Subpart D of part IV of sub-
22 chapter A of chapter 1 is amended by striking section 43
23 (and by striking the item relating to such section in the
24 table of sections for such subpart).

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 38(b) is amended by striking para-
2 graph (6).

3 (2) Section 6501(m) is amended by striking
4 “43,”.

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

8 **SEC. 3206. PHASEOUT AND REPEAL OF CREDIT FOR ELEC-**
9 **TRICITY PRODUCED FROM CERTAIN RENEW-**
10 **ABLE RESOURCES.**

11 (a) REDUCTION OF CREDIT AND PHASEOUT
12 AMOUNTS.—

13 (1) IN GENERAL.—Section 45(b) is amended by
14 striking paragraph (2).

15 (2) CONFORMING AMENDMENTS.—Section
16 45(e)(2) is amended—

17 (A) by striking “the inflation adjustment
18 factor and” in subparagraph (A), and

19 (B) by striking subparagraph (B) and re-
20 designating subparagraph (C) as subparagraph
21 (B).

22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to electricity, and re-
24 fined coal, produced and sold after December 31,
25 2014.

1 (b) SPECIAL RULE FOR DETERMINING BEGINNING
2 OF CONSTRUCTION.—

3 (1) IN GENERAL.—Section 45(e) is amended by
4 adding at the end the following new paragraph:

5 “(12) SPECIAL RULE FOR DETERMINING BE-
6 GINNING OF CONSTRUCTION.—For purposes of sub-
7 section (d) and section 48(a)(5), the construction of
8 any facility, modification, improvement, addition, or
9 other property shall not be treated as beginning be-
10 fore any date unless there is a continuous program
11 of construction which begins before such date and
12 ends on the date that such property is placed in
13 service.”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by this subsection shall apply to taxable years begin-
16 ning before, on, or after the date of the enactment
17 of this Act.

18 (c) REPEAL OF CREDIT.—

19 (1) IN GENERAL.—Subpart D of part IV of
20 subchapter A of chapter 1 is amended by striking
21 section 45 (and by striking the item relating to such
22 section in the table of sections for such subpart).

23 (2) CONFORMING AMENDMENT.—Section 38(b)
24 is amended by striking paragraph (8).

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to electricity, and re-
3 fined coal, produced and sold after December 31,
4 2024.

5 **SEC. 3207. REPEAL OF INDIAN EMPLOYMENT CREDIT.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 is amended by striking section 45A
8 (and by striking the item relating to such section in the
9 table of sections for such subpart).

10 (b) CONFORMING AMENDMENT.—

11 (1) Section 38(b) is amended by striking para-
12 graph (10).

13 (2) Section 139D(c)(1) is amended to read as
14 follows:

15 “(1) INDIAN TRIBE.—The term ‘Indian tribe’
16 means any Indian tribe, band, nation, pueblo, or
17 other organized group or community, including any
18 Alaska Native village or regional or village corpora-
19 tion, as defined in, or established pursuant to, the
20 Alaska Native Claims Settlement Act (43 U.S.C.
21 1601 et seq.) which is recognized as eligible for the
22 special programs and services provided by the
23 United States to Indians because of their status as
24 Indians.”.

1 (3) Section 280C(a) is amended by striking
2 “45A,”.

3 (4) Section 5000A(e)(3) is amended by striking
4 “section 45A(c)(6)” and inserting “section
5 139D(e)(1)”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2013.

9 **SEC. 3208. REPEAL OF CREDIT FOR PORTION OF EM-**
10 **PLOYER SOCIAL SECURITY TAXES PAID WITH**
11 **RESPECT TO EMPLOYEE CASH TIPS.**

12 (a) IN GENERAL.—Subpart D of part IV of sub-
13 chapter A of chapter 1 is amended by striking section 45B
14 (and by striking the item relating to such section in the
15 table of sections for such subpart).

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 38(b) is amended by striking para-
18 graph (11).

19 (2) Section 6501(m) is amended by striking
20 “45B,”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to tips received for
23 services performed after December 31, 2014.

1 **SEC. 3209. REPEAL OF CREDIT FOR CLINICAL TESTING EX-**
2 **PENSES FOR CERTAIN DRUGS FOR RARE DIS-**
3 **EASES OR CONDITIONS.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 is amended by striking section 45C
6 (and by striking the item relating to such section in the
7 table of sections for such subpart).

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 38(b) is amended by striking para-
10 graph (12).

11 (2) Section 280C is amended by striking sub-
12 section (b).

13 (3) Section 6501(m) is amended by striking
14 “45C(d)(4),”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to amounts paid or incurred in tax-
17 able years beginning after December 31, 2014.

18 **SEC. 3210. REPEAL OF CREDIT FOR SMALL EMPLOYER PEN-**
19 **SION PLAN STARTUP COSTS.**

20 (a) IN GENERAL.—Subpart D of part IV of sub-
21 chapter A of chapter 1 is amended by striking section 45E
22 (and by striking the item relating to such section in the
23 table of sections for such subpart).

24 (b) CONFORMING AMENDMENTS.—Section 38(b) is
25 amended by striking paragraph (14).

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to costs paid or incurred after De-
3 cember 31, 2014, with respect to qualified employer plans
4 first effective after such date.

5 **SEC. 3211. REPEAL OF EMPLOYER-PROVIDED CHILD CARE**
6 **CREDIT.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 is amended by striking section 45F
9 (and by striking the item relating to such section in the
10 table of sections for such subpart).

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 38(b) is amended by striking para-
13 graph (15).

14 (2) Section 1016(a) is amended by striking
15 paragraph (28).

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection, the amendments made by
19 this section shall apply to taxable years beginning
20 after December 31, 2014.

21 (2) BASIS ADJUSTMENTS.—The amendment
22 made by subsection (b)(2) shall apply to credits de-
23 termined for taxable years beginning after December
24 31, 2014.

1 **SEC. 3212. REPEAL OF RAILROAD TRACK MAINTENANCE**

2 **CREDIT.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 is amended by striking section 45G
5 (and by striking the item relating to such section in the
6 table of sections for such subpart).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 38(b) is amended by striking para-
9 graph (16).

10 (2) Section 1016(a) is amended by striking
11 paragraph (29).

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as otherwise pro-
14 vided in this subsection, the amendments made by
15 this section shall apply to taxable years beginning
16 after December 31, 2013.

17 (2) BASIS ADJUSTMENTS.—The amendment
18 made by subsection (b)(2) shall apply to credits de-
19 termined for taxable years beginning after December
20 31, 2013.

21 **SEC. 3213. REPEAL OF CREDIT FOR PRODUCTION OF LOW**
22 **SULFUR DIESEL FUEL.**

23 (a) IN GENERAL.—Subpart D of part IV of sub-
24 chapter A of chapter 1 is amended by striking section 45H
25 (and by striking the item relating to such section in the
26 table of sections for such subpart).

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 38(b) is amended by striking para-
3 graph (18).

4 (2) Section 280C is amended by striking sub-
5 section (d).

6 (3) Section 6501(m) is amended by striking
7 “45H(g),”.

8 (4) Section 6720A is amended—

9 (A) by striking “(as defined in section
10 45H(c)(3))” in subsection (a), and

11 (B) by adding at the end the following new
12 subsection:

13 “(c) APPLICABLE EPA REGULATIONS.—The term
14 ‘applicable EPA regulations’ means the Highway Diesel
15 Fuel Sulfur Control Requirements of the Environmental
16 Protection Agency.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to expenses paid or incurred in
19 taxable years beginning after December 31, 2014.

20 **SEC. 3214. REPEAL OF CREDIT FOR PRODUCING OIL AND**
21 **GAS FROM MARGINAL WELLS.**

22 (a) IN GENERAL.—Subpart D of part IV of sub-
23 chapter A of chapter 1 is amended by striking section 45I
24 (and by striking the item relating to such section in the
25 table of sections for such subpart).

1 (b) CONFORMING AMENDMENT.—Section 38(b) is
2 amended by striking paragraph (19).

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2014.

6 **SEC. 3215. REPEAL OF CREDIT FOR PRODUCTION FROM AD-**
7 **VANCED NUCLEAR POWER FACILITIES.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 is amended by striking section 45J
10 (and by striking the item relating to such section in the
11 table of sections for such subpart).

12 (b) CONFORMING AMENDMENT.—Section 38(b) is
13 amended by striking paragraph (21).

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to electricity produced and sold
16 after December 31, 2014.

17 **SEC. 3216. REPEAL OF CREDIT FOR PRODUCING FUEL**
18 **FROM A NONCONVENTIONAL SOURCE.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-
20 chapter A of chapter 1 is amended by striking section 45K
21 (and by striking the item relating to such section in the
22 table of sections for such subpart).

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 38(b) is amended by striking para-
25 graph (22).

- 1 (2) Section 45(e)(9) is amended—
2 (A) in subparagraph (A)—
3 (i) by inserting “, as in effect before
4 its repeal” after “within the meaning of
5 section 45K”, and
6 (ii) by inserting “(as in effect before
7 its repeal)” after “under section 45K”,
8 and
9 (B) in subparagraph (B), by inserting “(as
10 in effect before its repeal)” after “section
11 45K”.
- 12 (3) Section 4041(a)(2) is amended—
13 (A) by striking “(as defined in section
14 45K(c)(3))” in subparagraph (B)(ii), and
15 (B) by adding at the end the following new
16 subparagraph:
17 “(C) BIOMASS.—The term “biomass”
18 means any organic material other than—
19 (i) oil and natural gas (or any prod-
20 uct thereof), and
21 (ii) coal (including lignite) or any
22 product thereof.”.
- 23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to fuel produced and sold after
25 December 31, 2013.

1 **SEC. 3217. REPEAL OF NEW ENERGY EFFICIENT HOME**

2 **CREDIT.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 is amended by striking section 45L
5 (and by striking the item relating to such section in the
6 table of sections for such subpart).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 38(b) is amended by striking para-
9 graph (23).

10 (2) Section 1016(a) is amended by striking
11 paragraph (32).

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to homes acquired after December
14 31, 2013.

15 **SEC. 3218. REPEAL OF ENERGY EFFICIENT APPLIANCE**

16 **CREDIT.**

17 (a) IN GENERAL.—Subpart D of part IV of sub-
18 chapter A of chapter 1 is amended by striking section 45M
19 (and by striking the item relating to such section in the
20 table of sections for such subpart).

21 (b) CONFORMING AMENDMENT.—Section 38(b) is
22 amended by striking paragraph (24).

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to appliances produced after De-
25 cember 31, 2013.

1 **SEC. 3219. REPEAL OF MINE RESCUE TEAM TRAINING**

2 **CREDIT.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 is amended by striking section 45N
5 (and by striking the item relating to such section in the
6 table of sections for such subpart).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 38(b) is amended by striking para-
9 graph (31).

10 (2) Section 280C is amended by striking sub-
11 section (e).

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2013.

15 **SEC. 3220. REPEAL OF AGRICULTURAL CHEMICALS SECU-**

16 **RITY CREDIT.**

17 (a) IN GENERAL.—Subpart D of part IV of sub-
18 chapter A of chapter 1 is amended by striking section 45O
19 (and by striking the item relating to such section in the
20 table of sections for such subpart).

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 38(b) is amended by striking para-
23 graph (32).

24 (2) Section 280C is amended by striking sub-
25 section (f).

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred after
3 December 31, 2012.

4 **SEC. 3221. REPEAL OF CREDIT FOR CARBON DIOXIDE SE-**
5 **QUESTRATION.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-
7 chapter A of chapter 1 is amended by striking section 45Q
8 (and by striking the item relating to such section in the
9 table of sections for such subpart).

10 (b) CONFORMING AMENDMENT.—Section 38(b) is
11 amended by striking paragraph (34).

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to credits determined for taxable
14 years beginning after December 31, 2014.

15 **SEC. 3222. REPEAL OF CREDIT FOR EMPLOYEE HEALTH IN-**
16 **SURANCE EXPENSES OF SMALL EMPLOYERS.**

17 (a) IN GENERAL.—Subpart D of part IV of sub-
18 chapter A of chapter 1 is amended by striking section 45R
19 (and by striking the item relating to such section in the
20 table of sections for such subpart).

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 38(b) is amended by striking para-
23 graph (36).

24 (2) Section 280C is amended by striking sub-
25 section (h).

1 (3) Section 6055(b)(2) is amended by inserting
2 “and” at the end of subparagraph (A), by striking
3 “, and” at the end of subparagraph (B) and insert-
4 ing a period, and by striking subparagraph (C).

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to amounts paid or incurred for
7 taxable years beginning after December 31, 2014.

8 **SEC. 3223. REPEAL OF REHABILITATION CREDIT.**

9 (a) IN GENERAL.—Subpart E of part IV of sub-
10 chapter A of chapter 1 is amended by striking section 47
11 (and by striking the item relating to such section in the
12 table of sections for such subpart).

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 170(f)(14)(A) is amended by insert-
15 ing “(as in effect before its repeal by the Tax Re-
16 form Act of 2014)” after “section 47”.

17 (2) Section 170(h)(4) is amended—

18 (A) by striking “(as defined in section
19 47(c)(3)(B))” in subparagraph (C)(ii), and

20 (B) by adding at the end the following new
21 subparagraph:

22 “(D) REGISTERED HISTORIC DISTRICT.—

23 The term ‘registered historic district’ means—

24 “(i) any district listed in the National
25 Register, and

1 “(ii) any district—
2 “(I) which is designated under a
3 statute of the appropriate State or
4 local government, if such statute is
5 certified by the Secretary of the Inte-
6 rior to the Secretary as containing cri-
7 teria which will substantially achieve
8 the purpose of preserving and reha-
9 bilitating buildings of historic signifi-
10 cance to the district, and
11 “(II) which is certified by the
12 Secretary of the Interior to the Sec-
13 retary as meeting substantially all of
14 the requirements for the listing of dis-
15 tricts in the National Register.”.
16 (3) Section 469(i)(3) is amended by striking
17 subparagraph (B).
18 (4) Section 469(i)(6)(B) is amended—
19 (A) by striking “in the case of—” and all
20 that follows and inserting “in the case of any
21 credit determined under section 42 for any tax-
22 able year.”, and
23 (B) by striking “, REHABILITATION CRED-
24 IT,” in the heading thereof.

1 (5) Section 469(k)(1) is amended by striking “,
2 or any rehabilitation credit determined under section
3 47,”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to amounts paid after December 31,
8 2014.

9 (2) TRANSITION RULE.—In the case of quali-
10 fied rehabilitation expenditures (within the meaning
11 of section 47 of the Internal Revenue Code of 1986
12 as in effect before its repeal) with respect to any
13 building—

14 (A) acquired by the taxpayer before Janu-
15 ary 1, 2015, and

16 (B) with respect to which the 24-month
17 period selected by the taxpayer under section
18 47(c)(1)(C) of such Code begins not later than
19 January 1, 2015,

20 the amendments made by this section shall apply to
21 amounts paid after December 31, 2016.

22 **SEC. 3224. REPEAL OF ENERGY CREDIT.**

23 (a) TERMINATION.—Section 48 is amended by adding
24 at the end the following new subsection:

1 “(e) APPLICATION OF SECTION.—This section shall
2 not apply to any energy property placed in service after
3 December 31, 2016.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Paragraph (2)(A)(i)(II), and clauses (ii)
6 and (vii) of paragraph (3)(A), of section 48(a) are
7 each amended by striking “but only with respect to
8 periods ending before January 1, 2017”.

9 (2) Paragraph (1) of section 48(c) is amended
10 by striking subparagraph (D).

11 (3) Paragraph (2) of section 48(c) is amended
12 by striking subparagraph (D).

13 (4) Subparagraph (A) of section 48(c)(3) is
14 amended by inserting “and” at the end of clause
15 (ii), by striking “, and” at the end of clause (iii) and
16 inserting a period, and by striking clause (iv).

17 (5) Paragraph (4) of section 48(c) is amended
18 by striking subparagraph (C).

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to property placed in service after
21 December 31, 2016.

22 **SEC. 3225. REPEAL OF QUALIFYING ADVANCED COAL**
23 **PROJECT CREDIT.**

24 (a) IN GENERAL.—Subpart E of part IV of sub-
25 chapter A of chapter 1 is amended by striking section 48A

1 (and by striking the item relating to such section in the
2 table of sections for such subpart).

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to allocations and reallocations
5 after December 31, 2014.

6 **SEC. 3226. REPEAL OF QUALIFYING GASIFICATION**
7 **PROJECT CREDIT.**

8 (a) IN GENERAL.—Subpart E of part IV of sub-
9 chapter A of chapter 1 is amended by striking section 48B
10 (and by striking the item relating to such section in the
11 table of sections for such subpart).

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to allocations and reallocations
14 after December 31, 2014.

15 **SEC. 3227. REPEAL OF QUALIFYING ADVANCED ENERGY**
16 **PROJECT CREDIT.**

17 (a) IN GENERAL.—Subpart E of part IV of sub-
18 chapter A of chapter 1 is amended by striking section 48C
19 (and by striking the item relating to such section in the
20 table of sections for such subpart).

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to allocations and reallocations
23 after December 31, 2014.

1 **SEC. 3228. REPEAL OF QUALIFYING THERAPEUTIC DIS-**
2 **COVERY PROJECT CREDIT.**

3 (a) IN GENERAL.—Subpart E of part IV of sub-
4 chapter A of chapter 1 is amended by striking section 48D
5 (and by striking the item relating to such section in the
6 table of sections for such subpart).

7 (b) CONFORMING AMENDMENTS.—Section 280C is
8 amended by striking the second subsection (g) (as added
9 by the Patient Protection and Affordable Care Act).

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to allocations and reallocations
12 after December 31, 2014.

13 **SEC. 3229. REPEAL OF WORK OPPORTUNITY TAX CREDIT.**

14 (a) IN GENERAL.—Subpart F of part IV of sub-
15 chapter A of chapter 1 is amended by striking section 51
16 (and by striking the item relating to such section in the
17 table of sections for such subpart).

18 (b) CLERICAL AMENDMENT.—The heading of such
19 subpart F (and the item relating to such subpart in the
20 table of subparts for part IV of subchapter A of chapter
21 1) are each amended by striking “Rules for Computing
22 Work Opportunity Credit” and inserting “Special Rules”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to amounts paid or incurred to
25 individuals who begin work for the employer after Decem-
26 ber 31, 2013.

1 **SEC. 3230. REPEAL OF DEDUCTION FOR CERTAIN UNUSED**
2 **BUSINESS CREDITS.**

3 (a) IN GENERAL.—Part VI of subchapter B of chap-
4 ter 1 is amended by striking section 196 (and by striking
5 the item relating to such section in the table of sections
6 for such part).

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2014.

10 **Subtitle D—Accounting Methods**

11 **SEC. 3301. LIMITATION ON USE OF CASH METHOD OF AC-**
12 **COUNTING.**

13 (a) IN GENERAL.—Section 448 is amended to read
14 as follows:

15 **“SEC. 448. LIMITATION ON USE OF CASH METHOD OF AC-**
16 **COUNTING.**

17 “(a) IN GENERAL.—The cash receipts and disburse-
18 ments method of accounting may only be used by—

19 “(1) a natural person,

20 “(2) a farming business, and

21 “(3) any other entity which meets the gross re-
22 ceipts test of subsection (b) for the taxable year.

23 Such method may not be used by a tax shelter (as defined
24 in subsection (d)).

25 “(b) GROSS RECEIPTS TEST.—For purposes of this
26 section—

1 “(1) IN GENERAL.—An entity meets the gross
2 receipts test of this subsection for any taxable year
3 if the average annual gross receipts of such entity
4 for the 3-taxable-year period ending with the taxable
5 year which precedes such taxable year does not ex-
6 ceed \$10,000,000.

7 “(2) AGGREGATION RULES.—All persons treat-
8 ed as a single employer under subsection (a) or (b)
9 of section 52 or subsection (m) or (o) of section 414
10 shall be treated as one entity for purposes of para-
11 graph (1).

12 “(3) SPECIAL RULES.—For purposes of this
13 subsection—

14 “(A) NOT IN EXISTENCE FOR ENTIRE 3-
15 YEAR PERIOD.—If the entity was not in exist-
16 ence for the entire 3-year period referred to in
17 paragraph (1), such paragraph shall be applied
18 on the basis of the period during which such
19 entity (or trade or business) was in existence.

20 “(B) SHORT TAXABLE YEARS.—Gross re-
21 cepts for any taxable year of less than 12
22 months shall be annualized by multiplying the
23 gross receipts for the short period by 12 and di-
24 viding the result by the number of months in
25 the short period.

1 “(C) GROSS RECEIPTS.—Gross receipts for
2 any taxable year shall be reduced by returns
3 and allowances made during such year.

4 “(D) TREATMENT OF PREDECESSORS.—
5 Any reference in this subsection to an entity
6 shall include a reference to any predecessor of
7 such entity.

8 “(c) FARMING BUSINESS.—For purposes of this sec-
9 tion—

10 “(1) IN GENERAL.—The term ‘farming busi-
11 ness’ means the trade or business of farming.

12 “(2) CERTAIN TRADES AND BUSINESSES IN-
13 CLUDED.—

14 “(A) IN GENERAL.—The term ‘farming
15 business’ shall include the trade or business
16 of—

17 “(i) operating a nursery or sod farm,
18 or

19 “(ii) the raising or harvesting of trees
20 bearing fruit, nuts, or other crops, or orna-
21 mental trees.

22 “(B) CERTAIN EVERGREEN TREES NOT
23 TREATED AS ORNAMENTAL.—For purposes of
24 subparagraph (A)(ii), an evergreen tree which is
25 more than 6 years old at the time severed from

1 the roots shall not be treated as an ornamental
2 tree.

3 “(d) TAX SHELTER DEFINED.—For purposes of this
4 section, the term ‘tax shelter’ has the meaning given such
5 term by section 461(i)(2) (determined after application of
6 paragraph (3) thereof). An S corporation shall not be
7 treated as a tax shelter for purposes of this section merely
8 by reason of being required to file a notice of exemption
9 from registration with a State agency described in section
10 461(i)(2)(A), but only if there is a requirement applicable
11 to all corporations offering securities for sale in the State
12 that to be exempt from such registration the corporation
13 must file such a notice.

14 “(e) SPECIAL RULES.—For purposes of this sec-
15 tion—

16 “(1) COORDINATION WITH SECTION 481.—In
17 the case of any person required by this section to
18 change its method of accounting for any taxable
19 year—

20 “(A) such change shall be treated as initi-
21 ated by such person, and

22 “(B) such change shall be treated as made
23 with the consent of the Secretary.

24 “(2) USE OF RELATED PARTIES, ETC.—The
25 Secretary shall prescribe such regulations as may be

1 necessary to prevent the use of related parties, pass-
2 thru entities, or intermediaries to avoid the applica-
3 tion of this section.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 446(c)(1) is amended by inserting
6 “to the extent provided in section 448,” before “the
7 cash receipts”.

8 (2) Section 451 is amended by adding at the
9 end the following new subsection:

10 “(j) SPECIAL RULE FOR LOSSES OF CERTAIN SERV-
11 ICE PROVIDERS ON ACCRUAL METHOD OF ACCOUNT-
12 ING.—

13 “(1) IN GENERAL.—In the case of any person
14 using an accrual method of accounting with respect
15 to amounts to be received for the performance of
16 services by such person, such person shall not be re-
17 quired to accrue any portion of such amounts which
18 (on the basis of such person’s experience) will not be
19 collected if such services are in the fields of health,
20 law, engineering, architecture, accounting, actuarial
21 science, performing arts, consulting, or any other
22 field identified by the Secretary for purposes of this
23 subsection.

24 “(2) EXCEPTION.—Paragraph (1) shall not
25 apply to any amount if interest is required to be

1 paid on such amount or there is any penalty for fail-
2 ure to timely pay such amount.

3 “(3) REGULATIONS.—The Secretary shall pre-
4 scribe regulations to permit taxpayers to determine
5 amounts referred to in paragraph (1) using com-
6 putations or formulas which, based on experience,
7 accurately reflect the amount of income that will not
8 be collected by such person. A taxpayer may adopt,
9 or request consent of the Secretary to change to, a
10 computation or formula that clearly reflects the tax-
11 payer’s experience. A request under the preceding
12 sentence shall be approved if such computation or
13 formula clearly reflects the taxpayer’s experience.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2014.

17 (d) CHANGE IN METHOD OF ACCOUNTING.—

18 (1) IN GENERAL.—In the case of any qualified
19 change in method of accounting for the taxpayer’s
20 first taxable year beginning after December 31,
21 2014—

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

1 (B) such change shall be treated as made
2 with the consent of the Secretary of the Treas-
3 ury, and

4 (C) if the net amount of the adjustments
5 required to be taken into account by the tax-
6 payer under section 481 of the Internal Rev-
7 enue Code of 1986 by reason of such change is
8 positive—

9 (i) such amount shall be taken into
10 account during the 4-taxable year period
11 beginning with the earlier of the taxpayer's
12 elected taxable year or the taxpayer's first
13 taxable year beginning after December 31,
14 2018, as follows:

15 (I) 10 percent of such amount in
16 the first taxable year in such period,

17 (II) 15 percent of such amount
18 in the second taxable year in such pe-
19 riod,

20 (III) 25 percent of such amount
21 in the third taxable year in such pe-
22 riod, and

23 (IV) 50 percent of such amount
24 in the fourth taxable year in such pe-
25 riod, and

1 (ii) for purposes of applying the regu-
2 lations and other guidance issued under
3 such section (including any provisions
4 which require accelerated inclusion), the
5 period beginning with the taxpayer's first
6 taxable year beginning after December 31
7 2014, and ending with the taxable year be-
8 fore the first taxable year referred to in
9 clause (i) shall not fail to be taken into ac-
10 count as part of the period of the adjust-
11 ment merely because such amount is not
12 otherwise taken into account under clause
13 (i) during such period.

14 (2) QUALIFIED CHANGE IN METHOD OF AC-
15 COUNTING.—For purposes of this subsection, the
16 term “qualified change in method of accounting”
17 means any change in method of accounting which—

18 (A) is required by the amendments made
19 by this section, or

20 (B) was prohibited under the Internal Rev-
21 enue Code of 1986 prior to such amendments
22 and is permitted under such Code after such
23 amendments.

24 (3) ELECTED TAXABLE YEAR.—For purposes of
25 this subsection, the term “elected taxable year”

1 means such taxable year as the taxpayer may elect
2 (at such time and in such form and manner as the
3 Secretary may provide) which begins after December
4 31, 2014, and is before the taxpayer's second tax-
5 able year beginning after December 31, 2018.

6 **SEC. 3302. RULES FOR DETERMINING WHETHER TAXPAYER**
7 **HAS ADOPTED A METHOD OF ACCOUNTING.**

8 (a) IN GENERAL.—Section 446 is amended by adding
9 at the end the following new subsection:

10 “(g) RULES FOR TREATING ACCOUNTING METHOD
11 AS ADOPTED BY TAXPAYER.—If the taxpayer uses a
12 method of accounting with respect to any item on any re-
13 turn of tax—

14 “(1) in the case of any method of accounting
15 which the taxpayer is permitted to use with respect
16 to such item, such method shall be treated as having
17 been adopted by the taxpayer with respect to such
18 item, and

19 “(2) in the case of any method of accounting
20 which the taxpayer is not permitted to use with re-
21 spect to such item, such method shall be treated as
22 having been adopted by the taxpayer with respect to
23 such item if the taxpayer used the same method with
24 respect to such item on the return of tax for the pre-
25 ceding taxable year.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 3303. CERTAIN SPECIAL RULES FOR TAXABLE YEAR**
5 **OF INCLUSION.**

6 (a) INCLUSION NOT LATER THAN FOR FINANCIAL
7 ACCOUNTING PURPOSES.—Section 451 is amended by re-
8 designating subsections (b) through (j) as subsection (c)
9 through (k), respectively, and by inserting after subsection
10 (a) the following new subsection:

11 “(b) INCLUSION NOT LATER THAN FOR FINANCIAL
12 ACCOUNTING PURPOSES.—

13 “(1) IN GENERAL.—In the case of a taxpayer
14 the taxable income of which is computed under the
15 accrual method of accounting, the amount of any
16 portion of any item of income shall be included in
17 gross income not later than the taxable year with re-
18 spect to which such amount is taken into account as
19 income in—

20 “(A) an audited financial statement of the
21 taxpayer described in section 1221(b)(3)(B), or

22 “(B) such other financial statement as the
23 Secretary may specify for purposes of this sub-
24 section.

1 “(2) COORDINATION WITH SPECIAL RULES FOR
2 LONG-TERM CONTRACTS.—Paragraph (1) shall not
3 apply with respect to any item of income to which
4 section 460 applies.”.

5 (b) TREATMENT OF ADVANCE PAYMENTS.—Section
6 451, as amended by subsection (a), is amended by redesignig-
7 nating subsections (c) through (k) as subsections (d)
8 through (l), respectively, and by inserting after subsection
9 (b) the following new subsection:

10 “(c) TREATMENT OF ADVANCE PAYMENTS.—

11 “(1) IN GENERAL.—A taxpayer which computes
12 taxable income under the accrual method of account-
13 ing, and receives any advance payment during the
14 taxable year, shall—

15 “(A) except as provided in subparagraph
16 (B), include such advance payment in gross in-
17 come for such taxable year, or

18 “(B) if the taxpayer elects the application
19 of this subparagraph with respect to the cat-
20 egory of advance payments to which such ad-
21 vance payment belongs, the taxpayer shall—

22 “(i) to the extent that any portion of
23 such advance payment is required under
24 subsection (b) to be included in gross in-
25 come in the taxable year in which such

1 payment is received, so include such por-
2 tion, and

3 “(ii) include the remaining portion of
4 such advance payment in gross income in
5 the taxable year following the taxable year
6 in which such payment is received.

7 “(2) ELECTION.—

8 “(A) IN GENERAL.—Except as otherwise
9 provided in this paragraph, the election under
10 paragraph (1)(B) shall be made at such time,
11 in such form and manner, and with respect to
12 such categories of advance payments, as the
13 Secretary may provide.

14 “(B) PERIOD TO WHICH ELECTION AP-
15 PLIES.—An election under paragraph (1)(B)
16 shall be effective for the taxable year with re-
17 spect to which it is first made and for all subse-
18 quent taxable years, unless the taxpayer secures
19 the consent of the Secretary to revoke such
20 election. For purposes of this title, the com-
21 putation of taxable income under an election
22 made under paragraph (1)(B) shall be treated
23 as a method of accounting.

24 “(3) ADVANCE PAYMENT.—For purposes of this
25 subsection—

1 “(A) IN GENERAL.—The term ‘advance
2 payment’ means any payment—
3 “(i) the full inclusion of which in the
4 gross income of the taxpayer for the tax-
5 able year of receipt is a permissible method
6 of accounting under this section (deter-
7 mined without regard to this subsection),
8 and
9 “(ii) which is for goods, services, or
10 such other items as may be identified by
11 the Secretary for purposes of this clause.
12 “(B) EXCLUSIONS.—Except as otherwise
13 provided by the Secretary, such term shall not
14 include—
15 “(i) rent,
16 “(ii) insurance premiums,
17 “(iii) payments with respect to finan-
18 cial instruments,
19 “(iv) payments with respect to war-
20 ranty or guarantee contracts under which
21 a third party is the primary obligor,
22 “(v) payments subject to section
23 871(a), 881, 1441, or 1442,
24 “(vi) payments in property to which
25 section 83 applies, and

1 “(vii) any other payment identified by
2 the Secretary for purposes of this subpara-
3 graph.”.

4 (c) CROP INSURANCE PROCEEDS AND DISASTER
5 PAYMENTS.—Section 451, as amended by subsections (a)
6 and (b), is amended by striking subsection (f).

7 (d) LIVESTOCK SOLD ON ACCOUNT OF DROUGHT,
8 FLOOD, AND OTHER WEATHER-RELATED CONDITIONS.—
9 Section 451, as amended by subsections (a) and (b), is
10 amended by striking subsection (g).

11 (e) SALES OR DISPOSITIONS TO IMPLEMENT FED-
12 ERAL ENERGY REGULATORY COMMISSION OR STATE
13 ELECTRIC RESTRUCTURING POLICY.—Section 451, as
14 amended by subsections (a) and (b), is amended by strik-
15 ing subsection (k).

16 (f) CONFORMING AMENDMENTS.—Section 451, as
17 amended by subsections (a), (b), (c), (d), and (e), is
18 amended by redesignating subsections (h), (i), (j), and (l)
19 as subsections (f), (g), (h), and (i), respectively.

20 (g) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, the amendments made by
23 this section shall apply to taxable years beginning
24 after December 31, 2014.

1 (2) CROP INSURANCE PROCEEDS AND DISASTER
2 PAYMENTS.—

3 (A) IN GENERAL.—Except as provided in
4 subparagraph (B), the amendments made by
5 subsection (c) shall apply to destruction and
6 damage of crops occurring after December 31,
7 2014.

8 (B) INABILITY TO PLANT.—In the case of
9 inability to plant crops because of a natural dis-
10 aster, the amendments made by subsection (c)
11 shall apply to natural disasters occurring after
12 December 31, 2014.

13 (3) LIVESTOCK.—The amendments made by
14 subsection (d) shall apply to sales and exchanges
15 after December 31, 2014.

16 (4) SALES OR DISPOSITIONS TO IMPLEMENT
17 ELECTRIC RESTRUCTURING POLICY.—The amend-
18 ments made by subsection (e) shall apply to sales
19 and dispositions after December 31, 2013.

20 (5) CHANGE IN METHOD OF ACCOUNTING.—In
21 the case of any taxpayer required by the amend-
22 ments made by subsections (a) and (b) to change its
23 method of accounting for its first taxable year begin-
24 ning after December 31, 2014—

1 (A) such change shall be treated as initi-
2 ated by the taxpayer, and

3 (B) such change shall be treated as made
4 with the consent of the Secretary of the Treas-
5 ury.

6 **SEC. 3304. INSTALLMENT SALES.**

7 (a) REPEAL OF EXCEPTIONS TO TREATMENT AS
8 DEALER DISPOSITIONS.—Section 453(l) is amended to
9 read as follows:

10 “(1) DEALER DISPOSITIONS.—For purposes of sub-
11 section (b)(2)(A), the term ‘dealer disposition’ means any
12 of the following dispositions:

13 “(1) PERSONAL PROPERTY.—Any disposition of
14 personal property by a person who regularly sells or
15 otherwise disposes of personal property of the same
16 type on the installment plan.

17 “(2) REAL PROPERTY.—Any disposition of real
18 property which is held by the taxpayer for sale to
19 customers in the ordinary course of the taxpayer’s
20 trade or business.”.

21 (b) MODIFICATION OF RULES FOR NONDEALERS.—

22 (1) REPEAL OF SPECIAL RULE FOR INTEREST
23 PAYMENTS.—Section 453A(b)(2) is amended to read
24 as follows:

1 “(2) INTEREST PAYMENT EXCEPTION FOR OB-
2 LIGATIONS NOT OUTSTANDING AT CLOSE OF TAX-
3 ABLE YEAR.—Subsection (a)(1) shall apply to an ob-
4 ligation described in paragraph (1) arising during
5 any taxable year only if such obligation is out-
6 standing as of the close of such taxable year.”.

7 (2) REPEAL OF EXCEPTION FOR FARM PROP-
8 ERTY.—Section 453A(b)(3) is amended—

9 (A) by striking “from the disposition—”
10 and all that follows and inserting “from the dis-
11 position by an individual of personal use prop-
12 erty (within the meaning of section
13 1275(b)(3)).”, and

14 (B) by striking “AND FARM” in the head-
15 ing.

16 (3) REPEAL OF SPECIAL RULE FOR
17 TIMESHARES AND RESIDENTIAL LOTS.—Section
18 453A(b) is amended by striking paragraph (4) and
19 by redesignating paragraph (5) as paragraph (4).

20 (4) CONFORMING AMENDMENT.—Section
21 453A(c) is amended—

22 (A) by striking “the applicable percentage
23 of” in paragraph (2)(A), and

1 (B) by striking paragraph (4) and by re-
2 designating paragraphs (5) and (6) as para-
3 graphs (4) and (5), respectively.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to sales and other dispositions
6 after December 31, 2014.

7 **SEC. 3305. REPEAL OF SPECIAL RULE FOR PREPAID SUB-**
8 **SCRIPTION INCOME.**

9 (a) IN GENERAL.—Subpart B of part II of sub-
10 chapter E of chapter 1 is amended by striking section 455
11 (and by striking the item relating to such section in the
12 table of sections for such subpart).

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to payments received after Decem-
15 ber 31, 2014.

16 **SEC. 3306. REPEAL OF SPECIAL RULE FOR PREPAID DUES**
17 **INCOME OF CERTAIN MEMBERSHIP ORGANI-**
18 **ZATIONS.**

19 (a) IN GENERAL.—Subpart B of part II of sub-
20 chapter E of chapter 1 is amended by striking section 456
21 (and by striking the item relating to such section in the
22 table of sections for such subpart).

23 (b) CONFORMING AMENDMENT.—Section 277(b)(2)
24 is amended by inserting “(as in effect before its repeal)”
25 after “section 456(e)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to payments received after Decem-
3 ber 31, 2014.

4 **SEC. 3307. REPEAL OF SPECIAL RULE FOR MAGAZINES, PA-**
5 **PERBACKS, AND RECORDS RETURNED AFTER**
6 **CLOSE OF THE TAXABLE YEAR.**

7 (a) IN GENERAL.—Subpart B of part II of sub-
8 chapter E of chapter 1 is amended by striking section 458
9 (and by striking the item relating to such section in the
10 table of sections for such subpart).

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall apply to taxable years beginning
14 after December 31, 2014.

15 (2) CHANGE IN METHOD OF ACCOUNTING.—In
16 the case of any taxpayer required by the amend-
17 ments made by this section to change its method of
18 accounting for its first taxable year beginning after
19 December 31, 2014—

20 (A) such change shall be treated as initi-
21 ated by the taxpayer, and

22 (B) such change shall be treated as made
23 with the consent of the Secretary of the Treas-
24 ury.

1 **SEC. 3308. MODIFICATION OF RULES FOR LONG-TERM CON-**
2 **TRACTS.**

3 (a) REPEAL OF EXCEPTION FOR HOME CONSTRUC-
4 TION CONTRACTS.—Paragraph (1) of section 460(e) is
5 amended to read as follows:

6 “(1) EXCEPTION FOR CERTAIN CONSTRUCTION
7 CONTRACTS.—Subsections (a), (b), and (c)(1) and
8 (2) shall not apply to any construction contract en-
9 tered into by a taxpayer—

10 “(A) who estimates (at the time such con-
11 tract is entered into) that such contract will be
12 completed within the 2-year period beginning on
13 the contract commencement date of such con-
14 tract, and

15 “(B) whose average annual gross receipts
16 for the 3 taxable years preceding the taxable
17 year in which such contract is entered into do
18 not exceed \$10,000,000.

19 For purposes of this paragraph, rules similar to the
20 rules of paragraphs (2) and (3) of section 448(b)
21 shall apply.”.

22 (b) REPEAL OF SPECIAL RULE FOR OTHER RESI-
23 DENTIAL CONSTRUCTION CONTRACTS.—Section 460(e) is
24 amended by striking paragraphs (5) and (6).

25 (c) REPEAL OF SPECIAL RULES FOR QUALIFIED
26 SHIP CONTRACTS.—

1 (1) IN GENERAL.—Section 10203(b) of the
2 Revenue Act of 1987 is amended by striking para-
3 graph (2).

4 (2) QUALIFIED NAVAL SHIP CONTRACTS.—The
5 American Jobs Creation Act of 2004 is amended by
6 striking section 708.

7 (d) CONFORMING AMENDMENTS.—Section 460(e) is
8 amended by striking paragraphs (2) and (3) and by redesh-
9 ignating paragraph (4) as paragraph (2).

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to contracts entered into after De-
12 cember 31, 2014.

13 **SEC. 3309. NUCLEAR DECOMMISSIONING RESERVE FUNDS.**

14 (a) GROSS INCOME ON NUCLEAR DECOMMISSIONING
15 RESERVE FUNDS TAXED AT CORPORATE RATE.—Section
16 468A(e)(2) is amended by striking “at the rate of 20 per-
17 cent” and inserting “at a rate equal to the maximum rate
18 in effect for such taxable year under section 11”.

19 (b) INCOME INCLUSION UPON DISQUALIFIED DIS-
20 TRIBUTION.—Section 468A(c)(1) is amended by striking
21 “and” at the end of subparagraph (A), by striking the
22 period at the end of subparagraph (B) and inserting “,
23 and”, and by adding at the end the following new subpara-
24 graph:

1 “(C) if any distribution is made from the
2 Fund during such taxable year which is not
3 used as provided in subsection (e)(4), the bal-
4 ance of the Fund determined immediately be-
5 fore such distribution.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2014.

9 **SEC. 3310. REPEAL OF LAST-IN, FIRST-OUT METHOD OF IN-**
10 **VENTORY.**

11 (a) IN GENERAL.—Section 471 is amended by redese-
12 ignating subsection (c) as subsection (d) and by inserting
13 after subsection (b) the following new subsection:

14 “(c) LAST-IN, FIRST-OUT METHOD NOT PERMIS-
15 SIBLE.—The last-in, first-out method of determining in-
16 ventories shall in no event be treated as clearly reflecting
17 income.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Subpart D of part II of subchapter E of
20 chapter 1 is amended by striking sections 472, 473,
21 and 474 (and by striking the items relating to such
22 sections in the table of sections for such subpart).

23 (2)(A) Section 312(n), as amended by the pre-
24 ceding provisions of this Act, is amended by striking
25 paragraph (3) and by redesignating paragraphs (4)

1 through (7) as paragraphs (3) through (6), respec-
2 tively.

3 (B) Section 312(n)(6), as amended by the pre-
4 ceding provisions of this Act, is amended—

5 (i) by striking “paragraphs (4) and (6)” in
6 subparagraph (A) and inserting “paragraph
7 (4)”, and

8 (ii) by striking “paragraph (5)” in sub-
9 paragraph (B) and inserting “paragraph (3)”.

10 (C) Section 301(e)(3), as amended by the pre-
11 ceding provisions of this Act, is amended—

12 (i) by striking “paragraph (6)” and insert-
13 ing “paragraph (5)”, and

14 (ii) by striking “SECTION 312(n)(6)” in
15 the heading and inserting “SECTION
16 312(n)(5)”.

17 (D) Section 952(c)(3), as amended by the pre-
18 ceding provisions of this Act, is amended by striking
19 “paragraphs (3), (4), and (5)” and inserting “para-
20 graphs (2), (3), and (4)”.

21 (E) Section 1293(e)(3), as amended by the pre-
22 ceding provisions of this Act, is amended by striking
23 “paragraphs (3), (4), and (5)” and inserting “para-
24 graphs (2), (3), and (4)”.

1 (F) Section 1503(e)(2)(C), as amended by the
2 preceding provisions of this Act, is amended—

3 (i) by striking “paragraph (6)” and insert-
4 ing “paragraph (5)”, and

5 (ii) by striking “SECTION 312(n)(6)” in
6 the heading and inserting “SECTION
7 312(n)(5)”.

8 (3) Section 1363 is amended by striking sub-
9 section (d).

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2014.

13 (d) CHANGE IN METHOD OF ACCOUNTING.—

14 (1) IN GENERAL.—In the case of any taxpayer
15 required by the amendments made by this section to
16 change its method of accounting for its first taxable
17 year beginning after December 31, 2014—

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

20 (B) such change shall be treated as made
21 with the consent of the Secretary of the Treas-
22 ury, and

23 (C) if the net amount of the adjustments
24 required to be taken into account by the tax-
25 payer under section 481 of the Internal Rev-

1 enue Code of 1986 by reason of such change is
2 positive—

3 (i) such amount shall be taken into
4 account during the 4-taxable year period
5 beginning with the earlier of the taxpayer's
6 elected taxable year or the taxpayer's first
7 taxable year beginning after December 31,
8 2018, as follows:

9 (I) 10 percent of such amount in
10 the first taxable year in such period,

11 (II) 15 percent of such amount
12 in the second taxable year in such pe-
13 riod,

14 (III) 25 percent of such amount
15 in the third taxable year in such pe-
16 riod, and

17 (IV) 50 percent of such amount
18 in the fourth taxable year in such pe-
19 riod, and

20 (ii) for purposes of applying the regu-
21 lations and other guidance issued under
22 such section (including any provisions
23 which require accelerated inclusion), the
24 period beginning with the taxpayer's first
25 taxable year beginning after December 31

1 2014, and ending with the taxable year be-
2 fore the first taxable year referred to in
3 clause (i) shall not fail to be taken into ac-
4 count as part of the period of the adjust-
5 ment merely because such amount is not
6 otherwise taken into account under clause
7 (i) during such period.

8 (2) ELECTED TAXABLE YEAR.—For purposes of
9 this subsection, the term “elected taxable year”
10 means such taxable year as the taxpayer may elect
11 (at such time and in such form and manner as the
12 Secretary may provide) which begins after December
13 31, 2014, and is before the taxpayer’s second tax-
14 able year beginning after December 31, 2018.

15 (3) REDUCTION IN AMOUNT OF ADJUSTMENT
16 FOR CLOSELY-HELD ENTITIES.—

17 (A) IN GENERAL.—In the case of any
18 closely-held entity, paragraph (1)(C) shall be
19 applied by treating any reference to “such
20 amount” as a reference to 20 percent (28 per-
21 cent in the case of a C corporation) of such
22 amount.

23 (B) CLOSELY-HELD ENTITY.—For pur-
24 poses of this paragraph—

- 1 (i) IN GENERAL.—The term “closely-
2 held entity” means any domestic corpora-
3 tion or domestic partnership which—
4 (I) is not an ineligible entity,
5 (II) does not have more than 100
6 shareholders or partners (as the case
7 may be), and
8 (III) does not have as a share-
9 holder or partner a person (other than
10 an estate, a trust described in section
11 1361(c)(2) of the Internal Revenue
12 Code of 1986, or an organization de-
13 scribed section 1361(c)(6) of such
14 Code) who is not an individual.
- 15 (ii) CERTAIN SUBSIDIARIES.—An enti-
16 ty shall not fail to be treated as a closely-
17 held entity by reason of clause (i)(III) if all
18 of the interests in such entity are held by
19 a single closely-held entity (determined
20 without regard to this clause) and individ-
21 uals taken into account under clause (i)(II)
22 with respect to such entity. In the case of
23 tiered entities (other than the top tier enti-
24 ty), the preceding sentence shall be ap-
25 plied—

1 (I) by substituting “(determined
2 after application of this clause)” for
3 “(determined without regard to this
4 clause)”, and

5 (II) by substituting “with respect
6 to the top tier entity” for “with re-
7 spect to such entity”.

8 (iii) INELIGIBLE ENTITY.—The term
9 “ineligible entity” means any entity de-
10 scribed in section 1361(b)(2) of the Inter-
11 nal Revenue Code of 1986 applied by sub-
12 stituting “corporation or partnership” for
13 “corporation” each place it appears.

14 (iv) DATE OF DETERMINATION.—The
15 status of any entity as a closely-held entity
16 shall be determined as of February 26,
17 2014.

18 (v) SOLE PROPRIETORS.—An indi-
19 vidual operating a trade or business shall
20 be treated as a closely-held entity.

21 (C) CERTAIN TRANSFERS DISREGARDED.—

22 (i) IN GENERAL.—In the case of any
23 specified inventory transfer, the adjust-
24 ments referred to in paragraph (1)(C)
25 shall be determined—

1 (I) with respect to the transferor,
2 as though the property transferred
3 continued to be held at all times by
4 such transferor, and

5 (II) with respect to the trans-
6 feree, as though such property was
7 never transferred to such transferee.

8 (ii) SPECIFIED INVENTORY TRANS-
9 FER.—The term “specified inventory
10 transfer” means any transfer of property
11 described in section 1221(a)(1) if—

12 (I) such transfer is to a closely-
13 held entity from any person who is
14 not a closely-held entity,

15 (II) such transfer is on or after
16 February 26, 2014, and before the be-
17 ginning of the transferor’s first tax-
18 able year beginning after December
19 31, 2014, and

20 (III) the basis of such property
21 in the hands of the transferee imme-
22 diately after such transfer is either
23 determined by reference to the basis
24 of such property in the hands of the
25 transferor or is less than the fair mar-

1 ket value of such property at the time
2 of such transfer.

3 **SEC. 3311. REPEAL OF LOWER OF COST OR MARKET METH-**
4 **OD OF INVENTORY.**

5 (a) IN GENERAL.—Section 471, as amended by the
6 preceding provisions of this Act, is amended by redesignig-
7 nating subsection (d) as subsection (e) and by inserting
8 after subsection (c) the following new subsection:

9 “(d) LOWER OF COST OR MARKET METHOD NOT
10 PERMISSIBLE.—The lower of cost or market method of
11 determining inventories shall in no event be treated as
12 clearly reflecting income. For purposes of the preceding
13 sentence, the lower of cost or market shall include the
14 lower of cost or bona fide net selling price.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2014.

18 (c) CHANGE IN METHOD OF ACCOUNTING.—

19 (1) IN GENERAL.—In the case of any taxpayer
20 required by the amendments made by this section to
21 change its method of accounting for its first taxable
22 year beginning after December 31, 2014—

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

1 (B) such change shall be treated as made
2 with the consent of the Secretary of the Treas-
3 ury, and

4 (C) if the net amount of the adjustments
5 required to be taken into account by the tax-
6 payer under section 481 of the Internal Rev-
7 enue Code of 1986 by reason of such change is
8 positive—

9 (i) such amount shall be taken into
10 account during the 4-taxable year period
11 beginning with the earlier of the taxpayer's
12 elected taxable year or the taxpayer's first
13 taxable year beginning after December 31,
14 2018, as follows:

15 (I) 10 percent of such amount in
16 the first taxable year in such period,

17 (II) 15 percent of such amount
18 in the second taxable year in such pe-
19 riod,

20 (III) 25 percent of such amount
21 in the third taxable year in such pe-
22 riod, and

23 (IV) 50 percent of such amount
24 in the fourth taxable year in such pe-
25 riod, and

1 (ii) for purposes of applying the regu-
2 lations and other guidance issued under
3 such section (including any provisions
4 which require accelerated inclusion), the
5 period beginning with the taxpayer's first
6 taxable year beginning after December 31
7 2014, and ending with the taxable year be-
8 fore the first taxable year referred to in
9 clause (i) shall not fail to be taken into ac-
10 count as part of the period of the adjust-
11 ment merely because such amount is not
12 otherwise taken into account under clause
13 (i) during such period.

14 (2) ELECTED TAXABLE YEAR.—For purposes of
15 this subsection, the term “elected taxable year”
16 means such taxable year as the taxpayer may elect
17 (at such time and in such form and manner as the
18 Secretary may provide) which begins after December
19 31, 2014, and is before the taxpayer's second tax-
20 able year beginning after December 31, 2018.

21 **SEC. 3312. MODIFICATION OF RULES FOR CAPITALIZATION**
22 **AND INCLUSION IN INVENTORY COSTS OF**
23 **CERTAIN EXPENSES.**

24 (a) \$10,000,000 GROSS RECEIPTS EXCEPTION TO
25 APPLY TO PROPERTY PRODUCED BY THE TAXPAYER.—

1 Section 263A(b) is amended by striking all that follows
2 paragraph (1) and inserting the following new paragraphs:

3 “(2) PROPERTY ACQUIRED FOR RESALE.—Real
4 or personal property described in section 1221(a)(1)
5 which is acquired by the taxpayer for resale.

6 “(3) EXCEPTION FOR TAXPAYER WITH GROSS
7 RECEIPTS OF \$10,000,000 OR LESS.—This section
8 shall not apply to any property produced or acquired
9 by the taxpayer during any taxable year if the aver-
10 age annual gross receipts of the taxpayer (or any
11 predecessor) for the 3-taxable year period ending
12 with the taxable year preceding such taxable year do
13 not exceed \$10,000,000. For purposes of this para-
14 graph, rules similar to the rules of paragraphs (2)
15 and (3) of section 448(b) shall apply.

16 “(4) FILMS, SOUND RECORDINGS, BOOKS,
17 ETC.—For purposes of this subsection, the term
18 ‘tangible personal property’ shall include a film,
19 sound recording, video tape, book, or similar prop-
20 erty.”.

21 (b) REPEAL OF EXCEPTIONS FOR TIMBER AND CER-
22 TAIN ORNAMENTAL TREES.—Section 263A(e) is amended
23 by striking paragraph (5).

1 (c) REPEAL OF EXCEPTION FOR QUALIFIED CRE-
2 ACTIVE EXPENSES.—Section 263A is amended by striking
3 subsection (h).

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply to taxable years beginning
7 after December 31, 2014.

8 (2) CHANGE IN METHOD OF ACCOUNTING.—In
9 the case of any taxpayer required by the amend-
10 ments made by this section to change its method of
11 accounting for its first taxable year beginning after
12 December 31, 2014—

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

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

18 **SEC. 3313. MODIFICATION OF INCOME FORECAST METHOD.**

19 (a) EXTENSION OF FORECAST PERIOD.—

20 (1) IN GENERAL.—Paragraph (1) of section
21 167(g) is amended by striking “10th” each place it
22 appears and inserting “20th”.

23 (2) MODIFICATION OF RECOMPUTATION
24 YEARS.—Paragraph (4) of section 167(g) is amend-

1 ed by striking “the 3d and the 10th” and inserting
2 “the 5th, 10th, 15th, and 20th”.

3 (b) MODIFICATION OF RULES FOR TREATMENT OF
4 PARTICIPATIONS AND RESIDUALS.—Paragraph (7) of sec-
5 tion 167(g) is amended to read as follows:

6 “(7) TREATMENT OF PARTICIPATIONS AND RE-
7 SIDUALS.—

8 “(A) IN GENERAL.—In the case of any
9 participation or residual with respect to any
10 property to which this subsection applies (in-
11 cluding any property to which section 168 ap-
12 plies by reason of paragraph (8)), the tax-
13 payer—

14 “(i) shall exclude such participation or
15 residual from the adjusted basis of such
16 property, and

17 “(ii) shall be allowed a deduction for
18 such participation or residual in the tax-
19 able year in which such participation or re-
20 sidual is paid.

21 “(B) PARTICIPATIONS AND RESIDUALS.—
22 For purposes of this paragraph, the term ‘par-
23 ticipation or residual’ means, with respect to
24 any property, any cost the amount of which by

1 contract varies with the amount of income
2 earned in connection with such property.”.

3 (c) ELECTION TO UTILIZE 20-YEAR STRAIGHT LINE
4 RECOVERY.—Subsection (g) of section 167 is amended by
5 redesignating (8) as paragraph (9) and by inserting after
6 paragraph (7) the following new paragraph:

7 “(8) ELECTION TO UTILIZE 20-YEAR STRAIGHT
8 LINE RECOVERY.—If the taxpayer elects the applica-
9 tion of this paragraph for any taxable year, the de-
10 preciation deduction allowable with respect to any
11 property placed in service by the taxpayer during
12 such taxable year which would otherwise be deter-
13 mined under paragraph (1) shall be determined
14 under section 168—

15 “(A) by treating the straight line method
16 as the applicable depreciation method, and

17 “(B) by treating 20 years as the applicable
18 recovery period.”.

19 (d) REPEAL OF SPECIAL RULES FOR CERTAIN MUSI-
20 CAL WORKS AND COPYRIGHTS.—Subsection (g) of section
21 167, as amended by subsection (c), is amended by striking
22 paragraph (9).

23 (e) SAFE HARBOR AMORTIZATION OF CERTAIN IN-
24 TANGIBLE ASSETS.—Effective for property placed in serv-
25 ice after December 31, 2014, the Secretary of the Treas-

1 ury, or the Secretary's designee, shall revise Treasury
2 Regulation section 1.167(a)-3(b) (and such regulation
3 shall be applied) such that the safe harbor amortization
4 for certain intangible assets to which such regulation ap-
5 plies shall allow the taxpayer to treat such asset as having
6 a useful life equal to 20 years (and not 15 years).

7 (f) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to property placed in service after
9 December 31, 2014.

10 **SEC. 3314. REPEAL OF AVERAGING OF FARM INCOME.**

11 (a) IN GENERAL.—Subchapter Q of chapter 1 is
12 amended by striking part I (and by striking the item relat-
13 ing to such part in the table of parts for such subchapter).

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2014.

17 **SEC. 3315. TREATMENT OF PATENT OR TRADEMARK IN-**
18 **FRINGEMENT AWARDS.**

19 (a) IN GENERAL.—Part II of subchapter B of chap-
20 ter 1 is amended by adding at the end the following new
21 section:

22 **“SEC. 91. PATENT OR TRADEMARK INFRINGEMENT**
23 **AWARDS.**

24 “(a) IN GENERAL.—Except as provided in subsection
25 (b), any payment received for infringement of any patent

1 or trademark (whether by reason of judgment or settle-
2 ment) shall be included in gross income as ordinary in-
3 come.

4 “(b) IMPAIRMENT OF CAPITAL.—If the taxpayer
5 demonstrates to the satisfaction of the Secretary that a
6 payment described in subsection (a) constitutes damages
7 received by reason of the reduction in value of property
8 of the taxpayer caused by the infringement referred to in
9 subsection (a)—

10 “(1) the taxpayer’s basis in such property shall
11 be reduced (but not below zero) by the amount of
12 such payment, and

13 “(2) subsection (a) shall apply to so much of
14 such payment as exceeds the amount of the reduc-
15 tion under paragraph (1).”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 1016(a) is amended by adding at
18 the end the following new paragraph:

19 “(38) to the extent provided in section
20 91(b)(1),”.

21 (2) The table of sections for part II of sub-
22 chapter B of chapter 1 is amended by adding at the
23 end the following new item:

“Sec. 91. Patent or trademark infringement awards.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to payments received pursuant to
3 judgments and settlements after December 31, 2014.

4 **SEC. 3316. REPEAL OF REDUNDANT RULES WITH RESPECT**
5 **TO CARRYING CHARGES.**

6 (a) IN GENERAL.—Part IX of subchapter B of chap-
7 ter 1 is amended by striking section 266 (and by striking
8 the item relating to such section in the table of sections
9 for such subpart).

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 163(n) is amended by striking para-
12 graph (3) and by redesignating paragraphs (4) and
13 (5) as paragraphs (3) and (4), respectively.

14 (2) Section 1016(a)(1)(A)(i), as amended by
15 section 3514, is amended by striking “described in
16 section 266”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to amounts paid or incurred after
19 December 31, 2014.

20 **SEC. 3317. REPEAL OF RECURRING ITEM EXCEPTION FOR**
21 **SPUDDING OF OIL OR GAS WELLS.**

22 (a) IN GENERAL.—Section 461(i) is amended by
23 striking paragraph (2) and by redesignating paragraphs
24 (3), (4), and (5) as paragraphs (2), (3), and (4), respec-
25 tively.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **Subtitle E—Financial Instruments**

5 **PART 1—DERIVATIVES AND HEDGES**

6 **SEC. 3401. TREATMENT OF CERTAIN DERIVATIVES.**

7 (a) IN GENERAL.—Subchapter E of chapter 1 is
8 amended by adding at the end the following new part:

9 **“PART IV—DERIVATIVES**

“Sec. 485. Treatment of certain derivatives.

“Sec. 486. Derivative defined.

10 **“SEC. 485. TREATMENT OF CERTAIN DERIVATIVES.**

11 “(a) IN GENERAL.—For purposes of this subtitle—

12 “(1) any derivative held by a taxpayer at the
13 close of the taxable year shall be treated as sold for
14 its fair market value on the last business day of
15 such taxable year (and any gain or loss shall be
16 taken into account for the taxable year), and

17 “(2) proper adjustment shall be made in the
18 amount of any gain or loss subsequently realized for
19 gain or loss taken into account by reason of para-
20 graph (1).

21 “(b) TREATMENT AS ORDINARY INCOME OR LOSS;
22 ALLOWANCE AS NET OPERATING LOSS.—All items of in-
23 come, gain, loss, and deduction with respect to any deriva-
24 tive—

1 “(1) shall be treated as ordinary income or loss,
2 and

3 “(2) shall be treated for purposes of section
4 172(d)(4) as attributable to a trade or business of
5 the taxpayer.

6 “(c) MARK TO MARKET OF CERTAIN OFFSETTING
7 POSITIONS.—

8 “(1) IN GENERAL.—In the case of any straddle
9 which includes any derivative, subsections (a) and
10 (b) shall apply to all positions comprising such
11 straddle in the same manner as such subsections
12 apply to such derivative.

13 “(2) APPLICATION TO BUILT-IN GAIN POSI-
14 TIONS.—

15 “(A) IN GENERAL.—In the case of any
16 built-in gain position to which subsection (a)
17 applies by reason of paragraph (1)—

18 “(i) in addition to any other time at
19 which such position is treated as sold
20 under subsection (a)(1), such position shall
21 be treated as sold for its fair market value
22 at the time that the straddle is established
23 with respect to such position,

24 “(ii) proper adjustment shall be made
25 in the amount of any gain or loss subse-

1 quently realized for gain taken into ac-
2 count by reason of clause (i), and

3 “(iii) subsection (b) shall not apply to
4 any gain taken into account by reason of
5 clause (i).

6 “(B) BUILT-IN GAIN POSITION.—For pur-
7 poses of this subsection, the term ‘built-in gain
8 position’ means any position (other than a de-
9 rivative to which subsection (a) applies) with re-
10 spect to which a gain would be realized if such
11 position were sold for its fair market value at
12 the time that the straddle is established with
13 respect to such position.

14 “(C) EXCEPTION FOR STRAIGHT DEBT.—
15 Subparagraph (A) shall not apply to any posi-
16 tion with respect to debt if—

17 “(i) the interest payments (or other
18 similar amounts) with respect to such posi-
19 tion meet the requirements of section
20 860G(a)(1)(B)(i), and

21 “(ii) such position is not convertible
22 (directly or indirectly) into stock of the
23 issuer or any related person.

24 “(D) EXCEPTION FOR STRADDLES CON-
25 SISTING OF QUALIFIED COVERED CALL OPTIONS

1 AND THE OPTIONED STOCK.—Subparagraph
2 (A) shall not apply to any position which is part
3 of a straddle if—

4 “(i) all the offsetting positions which
5 are part of such straddle consist of 1 or
6 more qualified covered call options (as de-
7 fined in paragraph (6)) and the stock to be
8 purchased from the taxpayer under such
9 options, and

10 “(ii) such straddle is not part of a
11 larger straddle.

12 “(3) APPLICATION TO BUILT-IN LOSS POSI-
13 TIONS.—

14 “(A) IN GENERAL.—In the case of any
15 built-in loss position to which subsection (a) ap-
16 plies by reason of paragraph (1), any gain or
17 loss realized under subsection (a)(1) shall be
18 properly adjusted so as not to take into account
19 the loss referred to in subparagraph (B) with
20 respect to such position.

21 “(B) BUILT-IN LOSS POSITION.—For pur-
22 poses of subparagraph (A), the term ‘built-in
23 loss position’ means any position (other than a
24 derivative to which subsection (a) applies) with
25 respect to which a loss would be realized if such

1 position were sold for its fair market value at
2 the time that the straddle is established with
3 respect to such position.

4 “(4) HOLDING PERIOD OF NON-DERIVATIVES.—
5 For purposes of section 1222, in the case of any po-
6 sition to which subsection (a) applies by reason of
7 paragraph (1), the holding period of such position
8 shall not include—

9 “(A) the period during which subsection
10 (a) applies to such position, and

11 “(B) in the case of a built-in gain position,
12 the period before such position is treated as
13 sold under paragraph (2)(A).

14 “(5) STRADDLE.—For purposes of this sec-
15 tion—

16 “(A) the term ‘straddle’ has the meaning
17 given such term by section 1092(c) applied by
18 treating all offsetting positions as being with re-
19 spect to personal property, and

20 “(B) the term ‘position’ includes any deriv-
21 ative.

22 “(6) QUALIFIED COVERED CALL OPTIONS.—

23 “(A) IN GENERAL.—For purposes of para-
24 graph (2)(D), the term ‘qualified covered call
25 option’ means any option granted by the tax-

1 payer to purchase stock held by the taxpayer
2 (or stock acquired by the taxpayer in connection
3 with the granting of the option) but only if—
4 “(i) such option is traded on a na-
5 tional securities exchange which is reg-
6 istered with the Securities and Exchange
7 Commission or other market which the
8 Secretary determines has rules adequate to
9 carry out the purposes of this paragraph,
10 “(ii) such option is granted—
11 “(I) more than 30 days before
12 the day on which the option expires,
13 and
14 “(II) not more than 90 days be-
15 fore the day on which the option ex-
16 pires,
17 “(iii) such option is not granted by an
18 options dealer (as defined in subparagraph
19 (B)) in connection with such dealer’s activ-
20 ity of dealing in options, and
21 “(iv) gain or loss with respect to such
22 option would not be ordinary income or
23 loss if determined without regard to this
24 section.

1 “(B) OPTIONS DEALER.—For purposes of
2 subparagraph (A), the term ‘options dealer’
3 means—

4 “(i) any person registered with an ap-
5 propriate national securities exchange as a
6 market maker or specialist in listed op-
7 tions, and

8 “(ii) to the extent provided by the
9 Secretary consistent with the purposes of
10 this paragraph, any person whom the Sec-
11 retary determines performs functions simi-
12 lar to the persons described in clause (i).

13 “(C) REGULATIONS.—The Secretary shall
14 prescribe such regulations as may be necessary
15 or appropriate to carry out the purposes of this
16 paragraph and paragraph (2)(D). Such regula-
17 tions may include modifications to the provi-
18 sions of this paragraph and paragraph (2)(D)
19 which are appropriate to take account of
20 changes in the practices of option exchanges or
21 to prevent the use of options for tax avoidance
22 purposes.

23 “(d) TERMINATIONS, ETC.—

24 “(1) IN GENERAL.—The rules of subsections
25 (a) and (b) shall also apply to the termination (or

1 transfer) during the taxable year of the taxpayer's
2 obligation (or rights) with respect to a derivative by
3 offsetting, by taking or making delivery, by exercise
4 or being exercised, by assignment or being assigned,
5 by lapse, by expiration, by settlement, or otherwise.

6 “(2) MARK TO MARKET OF ALL POSITIONS IN
7 STRADDLE IF ANY POSITION TERMINATED OR
8 TRANSFERRED.—If paragraph (1) applies with re-
9 spect to any position which is part of a straddle, the
10 rules of subsections (a) and (b) shall apply to every
11 position which is part of such straddle.

12 “(e) DETERMINATION OF FAIR MARKET VALUE.—
13 For purposes of this section—

14 “(1) TERMINATIONS, ETC.—For purposes of
15 subsection (d), fair market value shall be determined
16 at the time of the termination (or transfer).

17 “(2) BLOCKAGE FACTOR NOT TAKEN INTO AC-
18 COUNT.—To the extent provided in regulations pre-
19 scribed by the Secretary, fair market value shall be
20 determined without regard to any premium or dis-
21 count based on the proportion of the total available
22 trading units which are held.

23 “(f) COORDINATION WITH CERTAIN RULES.—The
24 rules of sections 263(g) and 263A shall not apply to any
25 derivative or other position to which subsection (a) applies,

1 and section 1091 shall not apply (and section 1092 shall
2 apply) to any loss recognized under subsection (a).

3 **“SEC. 486. DERIVATIVE DEFINED.**

4 “(a) IN GENERAL.—For purposes of this part, except
5 as otherwise provided in this section, the term ‘derivative’
6 means any contract (including any option, forward con-
7 tract, futures contract, short position, swap, or similar
8 contract) the value of which, or any payment or other
9 transfer with respect to which, is (directly or indirectly)
10 determined by reference to one or more of the following:

11 “(1) Any share of stock in a corporation.

12 “(2) Any partnership or beneficial ownership
13 interest in a partnership or trust.

14 “(3) Any evidence of indebtedness.

15 “(4) Except as provided in subsection (d), any
16 real property.

17 “(5) Any commodity which is actively traded
18 (within the meaning of section 1092(d)(1)).

19 “(6) Any currency.

20 “(7) Any rate, price, amount, index, formula, or
21 algorithm.

22 “(8) Any other item as the Secretary may pre-
23 scribe.

24 Such term shall not include any item described in para-
25 graphs (1) through (8).

1 “(b) EXCEPTIONS.—

2 “(1) CERTAIN REAL PROPERTY.—

3 “(A) IN GENERAL.—For purposes of sub-
4 section (a)(4), the term ‘real property’ shall not
5 include—

6 “(i) a tract of real property (as de-
7 fined in section 1237(c)), or

8 “(ii) any real property which would be
9 property described in section 1221(a)(1)
10 with respect to the taxpayer if held directly
11 by the taxpayer.

12 “(B) REGULATIONS.—The Secretary shall
13 prescribe regulations or other guidance under
14 which multiple tracts of real property may be
15 treated as a single tract of real property for
16 purposes of subparagraph (A)(i) if the contract
17 referred to in subsection (a) is of a type which
18 is designed to facilitate the acquisition or dis-
19 position of such real property.

20 “(2) HEDGING TRANSACTIONS.—

21 “(A) IN GENERAL.—For purposes of this
22 part, the term ‘derivative’ shall not include any
23 contract which is part of a hedging transaction
24 (as defined in section 1221(b)).

1 “(B) SECTION 988 HEDGING TRANS-
2 ACTIONS.—For exception for section 988 hedg-
3 ing transactions, see section 988(d)(1).

4 “(3) SECURITIES LENDING, SALE-REPURCHASE,
5 AND SIMILAR FINANCING TRANSACTIONS.—To the
6 extent provided by the Secretary, for purposes of
7 this part, the term ‘derivative’ shall not include the
8 right to the return of the same or substantially iden-
9 tical securities transferred in a securities lending
10 transaction, sale-repurchase transaction, or similar
11 financing transaction.

12 “(4) OPTIONS RECEIVED IN CONNECTION WITH
13 THE PERFORMANCE OF SERVICES.—For purposes of
14 this part, the term ‘derivative’ shall not include any
15 option described in section 83(e)(3) received in con-
16 nection with the performance of services.

17 “(5) INSURANCE CONTRACTS, ANNUITIES, AND
18 ENDOWMENTS.—For purposes of this part, the term
19 ‘derivative’ shall not include any insurance, annuity,
20 or endowment contract issued by an insurance com-
21 pany to which subchapter L applies (or issued by
22 any foreign corporation to which such subchapter
23 would apply if such foreign corporation were a do-
24 mestic corporation).

1 “(6) DERIVATIVES WITH RESPECT TO STOCK
2 OF MEMBERS OF SAME WORLDWIDE AFFILIATED
3 GROUP.—For purposes of this part, the term ‘deriv-
4 ative’ shall not include, and subsections (c) and
5 (d)(2) of section 485 shall not apply to, any deriva-
6 tive (determined without regard to this subsection)
7 with respect to stock issued by any member of the
8 same worldwide affiliated group (as defined in sec-
9 tion 864(f)) in which the taxpayer is a member.

10 “(7) COMMODITIES USED IN NORMAL COURSE
11 OF TRADE OR BUSINESS.—For purposes of this part,
12 the term ‘derivative’ shall not include any contract
13 with respect to any commodity if—

14 “(A) such contract requires physical deliv-
15 ery with the option of cash settlement only in
16 unusual and exceptional circumstances, and

17 “(B) such commodity is used (and is used
18 in quantities with respect to which such deriva-
19 tive relates) in the normal course of the tax-
20 payer’s trade or business (or, in the case of an
21 individual, for personal consumption).

22 “(c) CONTRACTS WITH EMBEDDED DERIVATIVE
23 COMPONENTS.—

24 “(1) IN GENERAL.—If a contract has derivative
25 and nonderivative components, then each derivative

1 component shall be treated as a derivative for pur-
2 poses of this part. If the derivative component can-
3 not be separately valued, then the entire contract
4 shall be treated as a derivative for purposes of this
5 part.

6 “(2) EXCEPTION FOR CERTAIN EMBEDDED DE-
7 RIVATIVE COMPONENTS OF DEBT INSTRUMENTS.—A
8 debt instrument shall not be treated as having a de-
9 rivative component merely because—

10 “(A) such debt instrument is denominated
11 in a nonfunctional currency (as defined in sec-
12 tion 988(c)(1)(C)(ii)),

13 “(B) payments with respect to such debt
14 instrument are determined by reference to the
15 value of a nonfunctional currency (as so de-
16 fined), or

17 “(C) such debt instrument is a convertible
18 debt instrument, contingent payment debt in-
19 strument, a variable rate debt instrument, an
20 integrated debt instrument, an investment unit,
21 a debt instrument with alternative payment
22 schedules, or other debt instrument with respect
23 to which the regulations under section 1275(d)
24 apply.

1 “(d) TREATMENT OF AMERICAN DEPOSITORY RE-
2 CEIPTS AND SIMILAR INSTRUMENTS.—Except as other-
3 wise provided by the Secretary, for purposes of this part,
4 American depository receipts (and similar instruments)
5 with respect to shares of stock in foreign corporations
6 shall be treated as shares of stock in such foreign corpora-
7 tions.”.

8 (b) COORDINATION WITH RULES FOR DEALERS AND
9 TRADERS.—

10 (1) DERIVATIVES NOT TREATED AS SECURI-
11 TIES.—Section 475(e)(2) is amended—

12 (A) by adding “and” at the end of sub-
13 paragraph (C),

14 (B) by striking subparagraphs (D) and (E)
15 and by redesignating subparagraph (F) as sub-
16 paragraph (D),

17 (C) by striking “subparagraph (A), (B),
18 (C), (D), or (E)” in subparagraph (D)(i), as so
19 redesignated, and inserting “subparagraph (A),
20 (B), or (C)”, and

21 (D) by amending the last sentence to read
22 as follows: “Such term shall not include any po-
23 sition to which section 485(a) applies.”

24 (2) DERIVATIVES NOT TREATED AS COMMOD-
25 ITIES.—Section 475(e)(2) is amended—

- 1 (A) by adding “and” at the end of sub-
2 paragraph (A),
3 (B) by striking subparagraphs (B) and (C)
4 and by redesignating subparagraph (D) as sub-
5 paragraph (B), and
6 (C) by striking “subparagraph (A), (B) or
7 (C)” in subparagraph (B)(i), as so redesign-
8 ated, and inserting “subparagraph (A)”.
- 9 (3) CONFORMING AMENDMENTS.—
- 10 (A) Section 475(b) is amended by striking
11 paragraph (4).
- 12 (B) Section 475(d)(2)(B) is amended—
- 13 (i) by striking “subsection
14 (e)(2)(F)(iii)” and inserting “subsection
15 (e)(2)(D)(iii)”, and
16 (ii) by striking “subsection (e)(2)(F)”
17 and inserting “subsection (e)(2)(D)”.
- 18 (C) Section 475(f)(1)(D) is amended by
19 striking “subsections (b)(4) and (d)” and in-
20 serting “subsection (d)”.
- 21 (c) COORDINATION WITH STRADDLE RULES.—
- 22 (1) IN GENERAL.—Section 1092(e) is amended
23 to read as follows:

1 “(e) EXCEPTION FOR HEDGING TRANSACTIONS AND
2 STRADDLES WITH DERIVATIVES.—This section shall not
3 apply in the case of—

4 “(1) any hedging transaction (as defined in sec-
5 tion 1221(b)), and

6 “(2) any straddle (as defined in section 485)
7 which includes any derivative (as defined in section
8 486).”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Section 263(g)(3) is amended to read
11 as follows:

12 “(3) EXCEPTION FOR HEDGING TRANSACTIONS
13 AND STRADDLES WITH DERIVATIVES.—This sub-
14 section shall not apply in the case of—

15 “(A) any hedging transaction (as defined
16 in section 1221(b)), and

17 “(B) any straddle (as defined in section
18 485) which includes any derivative (as defined
19 in section 486).”.

20 (B) Section 1092(b) is amended—

21 (i) by striking paragraph (2), and

22 (ii) by striking all that precedes “The
23 Secretary shall” and inserting the fol-
24 lowing:

25 “(b) REGULATIONS.—The Secretary shall”.

1 (C) Section 1092(c) is amended by striking
2 paragraph (4).

3 (D) Section 1092 is amended by striking
4 subsection (f) and by redesignating subsection
5 (g) as subsection (f).

6 (d) TREATMENT OF CONVERTIBLE DEBT INSTRU-
7 MENTS.—The Secretary of the Treasury, or the Sec-
8 retary’s designee, shall modify the regulations issued
9 under section 1275(d) of the Internal Revenue Code of
10 1986 to provide that convertible debt instruments are
11 treated in a manner similar to contingent payment debt
12 instruments.

13 (e) REPEAL OF CERTAIN OTHER SUPERCEDED
14 RULES FOR DETERMINING CAPITAL GAINS AND
15 LOSSES.—

16 (1) IN GENERAL.—Part IV of subchapter P of
17 chapter 1 is amended by striking sections 1233,
18 1234, 1234A, 1234B, 1236, 1256, 1258, 1259, and
19 1260 (and by striking the items relating to such sec-
20 tions in the table of sections for such part).

21 (2) CONFORMING AMENDMENTS RELATED TO
22 REPEAL OF SECTION 1233.—Section 1092(b) is
23 amended by inserting “(as in effect before their re-
24 peal)” after “section 1233”.

1 (3) CONFORMING AMENDMENTS RELATED TO
2 REPEAL OF SECTION 1234.—Section 6045(h)(2) is
3 amended—

4 (A) by striking “(as defined in section
5 1234(b)(2)(A))”, and

6 (B) by adding at the end the following:
7 “For purposes of the preceding sentence, the
8 term ‘closing transaction’ means any termi-
9 nation of the taxpayer’s obligation under an op-
10 tion in property other than through the exercise
11 or lapse of the option.”.

12 (4) CONFORMING AMENDMENTS RELATED TO
13 REPEAL OF SECTION 1236.—

14 (A) Section 475(d)(3)(A) is amended by
15 striking “or section 1236(b)”.

16 (B) Section 512(b)(5) is amended by strik-
17 ing “section 1236(c)” and inserting “section
18 1058(e)”.

19 (C) Section 1058 is amended—

20 (i) by striking “(as defined in section
21 1236(e))” in subsection (a), and

22 (ii) by redesignating subsection (e) as
23 subsection (d) and by inserting after sub-
24 section (b) the following new subsection:

1 “(c) SECURITIES.—For purposes of this section, the
2 term ‘security’ means any share of stock in any corpora-
3 tion, certificate of stock or interest in any corporation,
4 note, bond, debenture, or evidence of indebtedness, or any
5 evidence of an interest in or right to subscribe to or pur-
6 chase any of the foregoing.”.

7 (5) CONFORMING AMENDMENTS RELATED TO
8 REPEAL OF SECTION 1256.—

9 (A) Section 461(i)(2)(B), as amended by
10 the preceding provisions of this Act, is amended
11 to read as follows:

12 “(B) any partnership or other entity (other
13 than a corporation which is not an S corpora-
14 tion) if more than 35 percent of the losses of
15 such entity during the taxable year are allocable
16 to limited partners or limited entrepreneurs
17 (within the meaning of section 461(j)(4)), and”.

18 (B) Section 475(d)(1) is amended by strik-
19 ing “sections 263(g), 263A, and 1256(a)” and
20 inserting “sections 263(g) and 263A”.

21 (C) Section 988(c)(1) is amended by strik-
22 ing subparagraphs (D) and (E).

23 (D) Section 1092(a)(3)(C)(ii)(II) is
24 amended by striking “section 1256(e)” and in-
25 serting “section 1221(b)”.

1 (E) Section 1092(d) is amended by strik-
2 ing paragraphs (5) and (6) and by redesignig-
3 nating paragraphs (7) and (8) as paragraphs
4 (5) and (6), respectively.

5 (F) Section 1212 is amended by striking
6 subsection (c).

7 (G) Section 1223 is amended by striking
8 paragraphs (7) and (14).

9 (H) Section 1281(b)(1)(E) is amended to
10 read as follows:

11 “(E) is a hedging transaction (as defined
12 in section 1221(b)), or”.

13 (I) Section 1402 is amended by striking
14 subsection (i).

15 (J) Section 4982(e)(6)(B) is amended by
16 striking “sections 1256 and 1296” and insert-
17 ing “sections 485 and 1296”.

18 (6) CONFORMING AMENDMENTS RELATED TO
19 REPEAL OF SECTION 1259.—Section 475(f)(1) is
20 amended by striking subparagraph (C) and by redesignig-
21 nating subparagraph (D) as subparagraph (C).

22 (f) OTHER CONFORMING AMENDMENTS.—

23 (1) Section 355(g)(2)(B)(i)(V) is amended to
24 read as follows:

1 “(V) any derivative (as defined in
2 section 486),”.

3 (2) Section 856(n)(4) is amended by inserting
4 “or derivatives (as defined in section 486)” after
5 “securities (as defined in section 475(e)(2))”.

6 (3) Section 857(e)(2)(B)(i), as amended by the
7 preceding provisions of this Act, is amended by
8 striking “section 860E or 1272” and inserting “sec-
9 tion 485, 860E, or 1272”.

10 (4) Section 988(d)(1) is amended—

11 (A) by striking “or 1256” and inserting
12 “or 485”, and

13 (B) by striking “1092, and 1256” and in-
14 serting “485, and 1092”.

15 (5) Section 1091(e) is amended to read as fol-
16 lows:

17 “(e) COORDINATION WITH MARK TO MARKET OF
18 DERIVATIVES.—Notwithstanding any other provision of
19 this section, a derivative (as defined in section 486) shall
20 not be treated as a security for purposes of this section.”.

21 (6)(A) Section 1221(a)(6) is amended to read
22 as follows:

23 “(6) any derivative (as defined in section
24 486),”.

1 (B) Section 1221(b) is amended by striking
2 paragraph (1).

3 (7) Section 4975(f)(11)(D) is amended by
4 striking clauses (i) and (ii) and inserting the fol-
5 lowing:

6 “(i) SECURITY.—The term ‘security’
7 means any security described in section
8 475(c)(2) (without regard to subparagraph
9 (D)(iii) thereof) and any derivative with re-
10 spect to such a security (within the mean-
11 ing of section 486).

12 “(ii) COMMODITY.—The term ‘com-
13 modity’ means any commodity described in
14 section 475(e)(2) (without regard to sub-
15 paragraph (B)(iii) thereof) and any deriva-
16 tive with respect to such a commodity
17 (within the meaning of section 486).”.

18 (8) The table of parts for subchapter E of
19 chapter 1 is amended by adding at the end the fol-
20 lowing new item:

PART IV. DERIVATIVES.

21 (g) EFFECTIVE DATES.—The amendments made by
22 this section shall apply to—

23 (1) taxable years ending after December 31,
24 2014, in the case of property acquired and positions
25 established after December 31, 2014, and

1 (2) taxable years ending after December 31,
2 2019, in the case of any other property or position.
3 For purposes of this subsection, any property acquired on
4 or before December 31, 2014, which becomes part of a
5 straddle (as defined in section 485, as added by this sec-
6 tion) after such date shall be treated as a position estab-
7 lished after such date.

8 **SEC. 3402. MODIFICATION OF CERTAIN RULES RELATED TO**
9 **HEDGES.**

10 (a) TREATMENT OF HEDGES IDENTIFIED FOR FI-
11 NANCIAL ACCOUNTING PURPOSES.—

12 (1) IN GENERAL.—Section 1221(b), as amend-
13 ed by the preceding provisions of this Act, is amend-
14 ed to read as follows:

15 “(b) HEDGING TRANSACTION.—For purposes of this
16 section—

17 “(1) IN GENERAL.—The term ‘hedging trans-
18 action’ means any transaction described in para-
19 graph (2) and identified under paragraph (3).

20 “(2) TRANSACTION DESCRIBED.—A transaction
21 is described in this paragraph if such transaction is
22 entered into by the taxpayer in the normal course of
23 the taxpayer’s trade or business primarily—

24 “(A) to manage risk of price changes or
25 currency fluctuations with respect to ordinary

1 property which is held or to be held by the tax-
2 payer,

3 “(B) to manage risk of interest rate or
4 price changes or currency fluctuations with re-
5 spect to borrowings made or to be made, or or-
6 dinary obligations incurred or to be incurred, by
7 the taxpayer, or

8 “(C) to manage such other risks as the
9 Secretary may prescribe in regulations.

10 “(3) IDENTIFICATION.—A transaction is identi-
11 fied under this paragraph if—

12 “(A) such transaction is clearly identified
13 as a hedging transaction for purposes of this
14 paragraph before the close of the day on which
15 it was acquired, originated, or entered into (or
16 such other time as the Secretary may by regula-
17 tions prescribe), or

18 “(B) such transaction is treated as a hedg-
19 ing transaction (within the meaning of generally
20 accepted accounting principles) for purposes of
21 an audited financial statement of the taxpayer
22 which—

23 “(i) is certified as being prepared in
24 accordance with generally accepted ac-
25 counting principles, and

1 “(ii) is used for the purposes of a
2 statement or report—

3 “(I) to shareholders, partners, or
4 other proprietors, or to beneficiaries,
5 or

6 “(II) for credit purposes.

7 “(4) TREATMENT OF NONIDENTIFICATION OR
8 IMPROPER IDENTIFICATION OF HEDGING TRANS-
9 ACTIONS.—The Secretary shall prescribe regulations
10 to properly characterize any income, gain, expense,
11 or loss arising from a transaction—

12 “(A) which would be a hedging transaction
13 if identified under paragraph (3), or

14 “(B) which is identified under paragraph
15 (3) but is not a transaction described in para-
16 graph (2).

17 In the case of a transaction identified under para-
18 graph (3) solely by reason of paragraph (3)(B), sub-
19 paragraph (B) of this paragraph shall not apply
20 with respect to such transaction unless the taxpayer
21 treats such transaction as a hedging transaction for
22 purposes of any provision of this title.

23 “(5) BONDS HELD BY AN INSURANCE COM-
24 PANY.—For purposes of paragraph (2)(A), in the
25 case of an insurance company to which subchapter

1 L applies, any bond, debenture, note, certificate, or
2 other evidence of indebtedness held by the taxpayer
3 shall be treated as ordinary property.

4 “(6) REGULATIONS.—The Secretary shall pre-
5 scribe such regulations as are appropriate to carry-
6 out the purposes of this subsection and subsection
7 (a)(7) in the case of transactions involving related
8 parties.”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Section 856(c)(5)(G)(i) is amended by
11 striking “(as defined in clause (ii) or (iii) of
12 section 1221(b)(2)(A)) which is clearly identi-
13 fied pursuant to section 1221(a)(7)” and insert-
14 ing “(as defined in section 1221(b) (determined
15 without regard to paragraph (2)(A) thereof)”.

16 (B) Section 954(c)(5)(A) is amended to
17 read as follows:

18 “(A) COMMODITY HEDGING TRANS-
19 ACTIONS.—

20 “(i) IN GENERAL.—For purposes of
21 paragraph (1)(C)(i), the term ‘commodity
22 hedging transaction’ means any trans-
23 action with respect to a commodity if such
24 transaction would be a hedging transaction
25 under section 1221(b) if—

1 “(I) the only transactions de-
2 scribed in paragraph (2) thereof were
3 transactions described in clause (ii),
4 and

5 “(II) paragraphs (3) and (4)
6 thereof were applied by substituting
7 ‘controlled foreign corporation’ for
8 ‘taxpayer’ each place it appears.

9 “(ii) TRANSACTION DESCRIBED.—A
10 transaction is described in this clause if
11 such transaction is entered into by the con-
12 trolled foreign corporation in the normal
13 course of the controlled foreign corpora-
14 tion’s trade or business primarily—

15 “(I) to manage risk of price
16 changes or currency fluctuations with
17 respect to ordinary property or prop-
18 erty described in section 1231(b)
19 which is held or to be held by the con-
20 trolled foreign corporation, or

21 “(II) to manage such other risks
22 as the Secretary may prescribe in reg-
23 ulations.”.

1 (C) Section 1221(a)(7) is amended by
2 striking “which is clearly” and all that follows
3 through “regulations prescribe”).

4 (b) SPECIAL RULE FOR COMMODITY HEDGING
5 TRANSACTIONS INVOLVING RELATED CONTROLLED FOR-
6 EIGN CORPORATIONS.—Section 954(c)(5)(A), as amended
7 by subsection (a), is amended by adding at the end the
8 following new clause:

9 “(iii) APPLICATION TO RELATED CON-
10 TROLLED FOREIGN CORPORATIONS.—

11 “(I) IN GENERAL.—In the case
12 of qualified property, clause (ii)(I)
13 shall be applied by substituting ‘the
14 controlled foreign corporation or an-
15 other controlled foreign corporation
16 which is a related person (within the
17 meaning of subsection (d)(3))’ for ‘the
18 controlled foreign corporation’.

19 “(II) QUALIFIED PROPERTY.—
20 For purposes of this clause, the term
21 ‘qualified property’ means ordinary
22 property or property described in sec-
23 tion 1231(b) (if disposed of at a gain)
24 the income from the disposition of
25 which would be neither subpart F in-

1 come nor income treated as effectively
2 connected with the conduct of a trade
3 or business in the United States.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to transactions entered into after
6 December 31, 2014.

7 **PART 2—TREATMENT OF DEBT INSTRUMENTS**

8 **SEC. 3411. CURRENT INCLUSION IN INCOME OF MARKET**
9 **DISCOUNT.**

10 (a) IN GENERAL.—Subpart B of part V of sub-
11 chapter P of chapter 1 is amended by redesignating sec-
12 tion 1278 as section 1279 and by inserting after section
13 1277 the following new section:

14 **“SEC. 1278. CURRENT INCLUSION IN INCOME OF MARKET**
15 **DISCOUNT ON BONDS ACQUIRED AFTER 2014.**

16 “(a) IN GENERAL.—There shall be included in the
17 gross income of the holder of any market discount bond
18 acquired after December 31, 2014, an amount equal to
19 the sum of the daily portions of the market discount for
20 each day during the taxable year on which such holder
21 held such bond.

22 “(b) DETERMINATION OF DAILY PORTIONS.—

23 “(1) IN GENERAL.—For purposes of subsection
24 (a), the daily portion of the market discount on any
25 market discount bond shall be an amount equal to

1 the daily portion of original issue discount which
2 would be includible in gross income under section
3 1272(a) (determined without regard to paragraph
4 (2) thereof) if such bond had been—

5 “(A) originally issued on the date on which
6 such bond was acquired by the taxpayer,

7 “(B) for an issue price equal to the basis
8 of such bond immediately after such acquisition.
9

10 “(2) COORDINATION WHERE BOND HAS ORIGINAL
11 ISSUE DISCOUNT.—In the case of any bond having
12 original issue discount, the daily portion determined
13 under paragraph (1) shall be reduced by the
14 daily portion of original issue discount includible in
15 gross income under section 1272(a) (determined
16 without regard to paragraph (2) thereof) with respect
17 to such bond.

18 “(3) SPECIAL RULE WHERE PARTIAL PRINCIPAL
19 PAYMENTS.—In the case of a bond the principal of
20 which may be paid in 2 or more payments, the daily
21 portions of market discount shall be determined
22 under regulations prescribed by the Secretary.

23 “(c) LIMITATION.—

24 “(1) IN GENERAL.—The amount of market discount
25 allocable to any accrual period for purposes of

1 determining the sum of the daily portions under sub-
2 section (a) shall not exceed the excess (if any) of—
3 “(A) the product of—
4 “(i) the maximum accrual rate deter-
5 mined under paragraph (2), properly ad-
6 justed for the length of the accrual period,
7 multiplied by
8 “(ii) the adjusted basis of such bond
9 at the beginning of such accrual period,
10 over
11 “(B) the sum of the qualified stated inter-
12 est and original issue discount allocable to such
13 accrual period.
14 “(2) MAXIMUM ACCRUAL RATE.—The max-
15 imum accrual rate determined under this paragraph
16 with respect to any bond is the greater of—
17 “(A) such bonds’s yield to maturity (deter-
18 mined as of the date of the issuance of such
19 bond) plus 5 percentage points, or
20 “(B) the applicable Federal rate for such
21 bond (determined under section 1274(d) as of
22 the date of the acquisition of such bond and on
23 the basis of the remaining term of such bond as
24 of such date) plus 10 percentage points.

1 “(3) APPLICATION TO POOLS.—In the case of
2 debt instruments to which section 1272(a)(6) ap-
3 plies, rules similar to the rules of such section shall
4 apply for purposes of determining the daily portions
5 of market discount.

6 “(4) ACCRUAL PERIOD.—For purposes of this
7 subsection, the term ‘accrual period’ has the mean-
8 ing given such term in section 1272(a)(5).

9 “(d) SPECIAL RULES.—

10 “(1) ACCRUALS TREATED AS INTEREST.—Ex-
11 cept for purposes of sections 103, 871(a), 881,
12 1441, 1442, and 6049 (and such other provisions as
13 may be specified in regulations), any amount in-
14 cluded in gross income under this section shall be
15 treated as interest for purposes of this title.

16 “(2) BASIS ADJUSTMENT.—The basis of any
17 market discount bond in the hands of the taxpayer
18 shall be increased by the amount included in gross
19 income pursuant to this section.

20 “(3) TREATMENT OF LOSS ON DISPOSITION.—
21 So much of any loss recognized by the taxpayer on
22 the disposition of a market discount bond as does
23 not exceed the aggregate amounts included in the
24 taxpayer’s gross income under subsection (a) with

1 respect to such bond shall be treated for purposes of
2 this title as an ordinary loss.”.

3 (b) TREATMENT OF MARKET DISCOUNT ON SHORT-
4 TERM NONGOVERNMENTAL BONDS.—

5 (1) ACCRUAL BASIS TAXPAYERS, ETC.—Section
6 1283 is amended by striking subsection (c) and re-
7 designating subsection (d) as subsection (c).

8 (2) OTHER TAXPAYERS.—

9 (A) Section 1271(a)(3) is amended—

10 (i) by striking all that precedes sub-
11 paragraph (C) and inserting the following:

12 “(3) CERTAIN SHORT-TERM OBLIGATIONS.—

13 “(A) IN GENERAL.—On the sale or ex-
14 change of any short-term obligation (as defined
15 in section 1283(a)(1)), any gain realized which
16 does not exceed an amount equal to the ratable
17 share of the acquisition discount shall be treat-
18 ed as ordinary income.”, and

19 (ii) by redesignating subparagraphs
20 (C), (D), and (E) as subparagraphs (B),
21 (C), and (D), respectively.

22 (B) Section 1271(a) is amended by strik-
23 ing paragraph (4).

24 (C) Section 1283(c)(3), as redesignated by
25 paragraph (1), is amended by striking “para-

1 graphs (3) and (4) of section 1271(a)” and in-
2 serting “section 1271(a)(3)”.

3 (c) COORDINATION WITH RULES RELATED TO
4 TREATING MARKET DISCOUNT AS ORDINARY INCOME
5 UPON DISPOSITION.—

6 (1) IN GENERAL.—Section 1276 is amended by
7 adding at the end the following new subsection:

8 “(e) COORDINATION WITH RULES FOR CURRENT IN-
9 CLUSION OF MARKET DISCOUNT.—This section shall not
10 apply to any market discount bond to which section 1278
11 applies.”.

12 (2) COORDINATION WITH DEFERRAL OF INTER-
13 EST DEDUCTION.—Section 1277 is amended by add-
14 ing at the end the following new subsection:

15 “(d) COORDINATION WITH RULES FOR CURRENT IN-
16 CLUSION OF MARKET DISCOUNT.—This section shall not
17 apply to any market discount bond to which section 1278
18 applies.”.

19 (3) COORDINATION WITH ELECTION TO IN-
20 CLUDE MARKET DISCOUNT CURRENTLY.—Section
21 1279(b), as redesignated by subsection (a), is
22 amended by adding at the end the following new
23 paragraph:

24 “(5) COORDINATION WITH RULES FOR CUR-
25 RENT INCLUSION OF MARKET DISCOUNT.—This sub-

1 section shall not apply to any market discount bond
2 to which section 1278 applies.”.

3 (d) TREATMENT OF CERTAIN BONDS HELD BY
4 PARTNERSHIPS.—

5 (1) TRANSFERS OF PARTNERSHIP INTER-
6 ESTS.—Section 1279(a), as redesignated by sub-
7 section (a), is amended by adding at the end the fol-
8 lowing new paragraph:

9 “(6) TRANSFERS OF PARTNERSHIP INTER-
10 ESTS.—In the case of a transfer described in section
11 743 of an interest in a partnership holding a bond,
12 the partnership shall be treated as acquiring the
13 transferee partner’s proportionate share of such
14 bond at the time of such transfer.”.

15 (2) DISTRIBUTION OF BONDS BY PARTNER-
16 SHIPS.—Section 1279(a)(2), as redesignated by sub-
17 section (a), is amended by adding at the end the fol-
18 lowing new subparagraph:

19 “(D) DISTRIBUTION BY PARTNERSHIP.—If
20 the basis of the taxpayer in a bond is deter-
21 mined under section 734(a)(2) or (b), for pur-
22 poses of subparagraph (A)(ii), the basis of such
23 bond shall not be less than its fair market value
24 immediately after its acquisition by the tax-
25 payer.”.

1 (e) MODERNIZATION OF CERTAIN DEFINITIONS.—

2 (1) REPEAL OF SUPERCEDED EXCEPTION FOR
3 MARKET DISCOUNT BONDS ACQUIRED AT ISSUE.—

4 Section 1279(a)(1), as redesignated by subsection
5 (a), is amended by striking subparagraph (D)

6 (2) REVISED ISSUE PRICE.—Section
7 1279(a)(4), as redesignated by subsection (a), is
8 amended—

9 (A) by redesignating subparagraphs (A)
10 and (B) as clauses (i) and (ii) and by indenting
11 such clauses appropriately,

12 (B) by striking “means the sum of—” and
13 inserting “means the excess of—

14 “(A) the sum of—”,

15 (C) by striking the period at the end and
16 inserting “, over”, and

17 (D) by adding at the end the following new
18 subparagraph:

19 “(B) the sum of—

20 “(i) any payments other than quali-
21 fied stated interest made under the bond
22 during periods before the acquisition of the
23 bond by the taxpayer, and

24 “(ii) any premium which has accrued
25 during such periods (determined as if

1 owned at all times by the original hold-
2 er.”.

3 (3) REDEMPTION PRICE.—

4 (A) IN GENERAL.—Section 1273(a)(2) is
5 amended to read as follows:

6 “(2) REDEMPTION PRICE.—

7 “(A) IN GENERAL.—The term ‘redemption
8 price’ means the sum of all payments provided
9 by the debt instrument other than qualified
10 stated interest.

11 “(B) QUALIFIED STATED INTEREST.—The
12 term ‘qualified stated interest’ means stated in-
13 terest that is unconditionally payable in money
14 and other property (other than a debt instru-
15 ment of the issuer) at least annually at a fixed
16 rate (or to the extent provided by regulations,
17 at a variable rate).

18 “(C) BASIS ADJUSTMENT.—The basis of
19 any debt instrument shall be reduced by the
20 amount of any payment received other than
21 qualified stated interest.”.

22 (B) CONFORMING AMENDMENTS.—

23 (i) Each of the following provisions is
24 amended by striking “stated redemption

- 1 price at maturity” and inserting “redemp-
2 tion price”:
- 3 (I) Section 1271(a)(3)(B) (as re-
4 designated by subsection (b)).
- 5 (II) Section 1273(a)(1)(A).
- 6 (III) Section 1273(a)(3).
- 7 (IV) Section 1273(b)(4).
- 8 (V) Section 1274(c)(1)(A).
- 9 (VI) Section 1279(a)(5) (as re-
10 designated by subsection (a)).
- 11 (VII) Section 1283(a)(2)(A).
- 12 (VIII) Section 1286(a)(1).
- 13 (IX) The heading and text of sec-
14 tion 1286(e)(4).
- 15 (ii) Section 108(e)(10)(B) is amended
16 by striking “stated” both places it appears.
- 17 (iii) Section 1272(a)(6)(A)(i) is
18 amended by striking “stated”.
- 19 (iv) Subparagraphs (A)(i) and (C) of
20 section 1279(a)(2) (as redesignated by
21 subsection (a)) are each amended by strik-
22 ing “the stated redemption price of the
23 bond at maturity” and inserting “the re-
24 demption price of the bond”.

1 (v) Section 1279(a)(2)(B) (as redesignig-
2 nated by subsection (a)) is amended by
3 striking “the stated redemption price of
4 such bond at maturity” and inserting “the
5 redemption price of such bond”.

6 (4) ADJUSTED ISSUE PRICE.—Section 1275(a)
7 is amended by adding at the end the following new
8 paragraph:

9 “(5) ADJUSTED ISSUE PRICE.—

10 “(A) IN GENERAL.—For purposes of this
11 part, the adjusted issue price of any debt in-
12 strument is its issue price—

13 “(i) increased by the aggregate of the
14 original issue discount includible in the
15 gross income of all holders for prior peri-
16 ods (determined without regard to para-
17 graph (7) of section 1272(a)), or, in the
18 case of a tax-exempt obligation, the aggre-
19 gate amount which accrued in the manner
20 provided by this subsection (determined
21 without regard to such paragraph (7)) for
22 all prior periods, and

23 “(ii) reduced by the sum of—

1 “(I) any payments other than
2 qualified stated interest previously
3 made on the debt instrument, and

4 “(II) in the case of a debt instru-
5 ment which was issued with amortiz-
6 able bond premium (as defined in sec-
7 tion 171(b)), the aggregate amount by
8 which the basis of such instrument
9 would have been reduced under sec-
10 tion 1016(a)(5) for prior periods if
11 the instrument had been held by the
12 original holder at all times.

13 “(B) DE MINIMIS RULE.—The adjusted
14 issue price of the issuer shall be properly ad-
15 justed to take into account that section
16 1273(a)(3) does not apply to the deduction
17 under section 163 for original issue discount.”.

18 (5) CERTAIN OTHER TERMS.—Paragraphs (3),
19 (4), and (5) of section 1272(a) are amended to read
20 as follows:

21 “(3) DETERMINATION OF DAILY PORTIONS.—
22 For purposes of paragraph (1), the daily portion of
23 the original issue discount on any debt instrument
24 shall be determined by allocating to each day in any
25 accrual period its ratable share of the original issue

1 discount allocable to such accrual period. For pur-
2 poses of the preceding sentence, the original issue
3 discount allocable to any accrual period is the excess
4 (if any) of—

5 “(A) the product of—

6 “(i) the adjusted issue price of the
7 debt instrument at the beginning of such
8 accrual period, multiplied by

9 “(ii) the yield to maturity of the debt
10 instrument properly adjusted for the
11 length of the accrual period, over

12 “(B) the amount of any qualified stated in-
13 terest allocable to such accrual period.

14 “(4) YIELD TO MATURITY.—For purposes of
15 this subsection, the term ‘yield to maturity’ means
16 the discount rate that, when used in computing the
17 present value of all principal and interest payments
18 to be made under the debt instrument produces an
19 amount equal to the issue price of the debt instru-
20 ment.

21 “(5) ACCRUAL PERIOD.—For purposes of this
22 subsection, the term ‘accrual period’ shall be deter-
23 mined under regulations prescribed by the Secretary,
24 provided that an accrual period shall in no event be
25 longer than one year.”.

1 (f) BROKER REPORTING OF INCLUDIBLE DISCOUNT
2 ON BONDS.—

3 (1) IN GENERAL.—Section 6045 is amended by
4 adding at the end the following new subsection:

5 “(i) DISCOUNT ON BONDS.—

6 “(1) IN GENERAL.—If any customer of a broker
7 holds a covered bond in an account with such broker
8 at any time during a calendar year—

9 “(A) such broker shall file a return under
10 subsection (a) for such calendar year, and

11 “(B) such return shall include with respect
12 to each such covered bond—

13 “(i) the amount (if any) includible in
14 the gross income of such customer as origi-
15 nal issue discount with respect to such
16 bond under section 1272 for periods dur-
17 ing such calendar year, and.

18 “(ii) the amount (if any) includible in
19 the gross income of such customer as mar-
20 ket discount with respect to such bond
21 under section 1278(a) for periods during
22 such calendar year.

23 “(2) COVERED BOND.—For purposes of this
24 subsection, the term ‘covered bond’ means any obli-

1 gation to which section 1272 or 1278(a) applies if
2 such obligation—

3 “(A) was acquired after December 31,
4 2014, through a transaction in the account in
5 which such obligation is held, or

6 “(B) was transferred to such account from
7 an account in which such obligation was a covered
8 bond, but only if the broker received a
9 statement under section 6045A with respect to
10 the transfer.

11 “(3) STATEMENTS TO CUSTOMERS.—The re-
12 quirements of subsections (b) shall apply with re-
13 spect to any return filed under subsection (a) by
14 reason of this subsection.”.

15 (2) INFORMATION REQUIRED IN CONNECTION
16 WITH TRANSFERS OF COVERED BONDS TO BRO-
17 KERS.—Subsection (a) of section 6045A is amend-
18 ed—

19 (A) by inserting “or a covered bond (as de-
20 fined in section 6045(i)(2))” after “covered se-
21 curity (as defined in section 6045(g)(3))”, and

22 (B) by striking “section 6045(g)” and in-
23 serting “subsections (g) and (i) of section
24 6045”.

1 (3) COORDINATION WITH REPORTING BY
2 ISSUER OF ORIGINAL ISSUE DISCOUNT.—Paragraph
3 (6) of section 6049(d) is amended by adding at the
4 end the following new subparagraph:

5 “(C) PREVENTION OF DOUBLE REPORT-
6 ING.—Except as otherwise provided by the Sec-
7 retary, original issue discount with respect to
8 any obligation shall not be required to be re-
9 ported under this section if such original issue
10 discount is required to be reported with respect
11 to such obligation under section 6045(i).”.

12 (g) CONFORMING AMENDMENTS.—

13 (1) Section 857(e)(2)(B)(i), as amended by the
14 preceding provisions of this Act, is amended by
15 striking “or 1272” and inserting “1272, or 1278”.

16 (2) Section 1042(d) is amended by striking
17 “section 1278(a)(2)(A)(ii)” in the matter following
18 paragraph (2) and inserting “section
19 1279(a)(2)(A)(ii)”.

20 (3) Section 1016(a), as amended by the pre-
21 ceding provisions of this Act, is amended by adding
22 at the end the following new paragraph:

23 “(39) in the case of any debt instrument, to ex-
24 tend provided in sections 1272(d)(1), 1273(a)(2)(C),
25 and 1278(d)(2).”.

1 (4) Section 1276 is amended by inserting “**ON**
2 **BONDS NOT SUBJECT TO CURRENT INCLU-**
3 **SION**” after “**ACCRUED MARKET DISCOUNT**” in
4 the heading thereof.

5 (5) Section 1277 is amended by inserting “**ON**
6 **BONDS NOT SUBJECT TO CURRENT INCLU-**
7 **SION**” after “**ACCRUED MARKET DISCOUNT**” in
8 the heading thereof.

9 (6) Section 1281 is amended by striking sub-
10 section (c).

11 (7) Section 1282 is amended by striking sub-
12 section (d).

13 (8) The table of sections for subpart B of part
14 V of subchapter P of chapter 1 is amended to read
15 as follows:

“Sec. 1276. Disposition gain representing accrued market discount on bonds
not subject to current inclusion treated as ordinary income.

“Sec. 1277. Deferral of interest deduction allocable to accrued market discount
on bonds not subject to current inclusion.

“Sec. 1278. Current inclusion in income of market discount on bonds acquired
after 2014.

“Sec. 1279. Definitions and special rules.”.

16 (h) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendments made by this section
19 shall apply to obligations acquired after December
20 31, 2014.

1 (2) MODERNIZATION OF TERMS.—The amend-
2 ments made by subsection (e) shall take effect on
3 January 1, 2015.

4 **SEC. 3412. TREATMENT OF CERTAIN EXCHANGES OF DEBT**
5 **INSTRUMENTS.**

6 (a) DETERMINATION OF ISSUE PRICE.—

7 (1) IN GENERAL.—Subpart A of part V of sub-
8 chapter P is amended by inserting after section
9 1274A the following new section:

10 **“SEC. 1274B. DETERMINATION OF ISSUE PRICE IN THE**
11 **CASE OF AN EXCHANGE OF DEBT INSTRU-**
12 **MENTS.**

13 “(a) IN GENERAL.—In the case of an exchange (in-
14 cluding by significant modification) by an issuer of a new
15 debt instrument for an existing debt instrument issued by
16 the same issuer, the issue price of the new debt instrument
17 shall be the least of—

18 “(1) the adjusted issue price of the existing
19 debt instrument,

20 “(2) the stated principal amount of the new
21 debt instrument, or

22 “(3) the imputed principal amount of the new
23 debt instrument.

1 “(b) APPLICABLE RATE.—The discount rate used to
2 determine the imputed principal amount of the new debt
3 instrument under subsection (a)(3) shall be the lesser of—

4 “(1) the applicable Federal rate determined
5 under section 1274(d) with respect to the new debt
6 instrument, or

7 “(2) the greater of—

8 “(A) the rate of qualified stated interest
9 with respect to the existing debt instrument, or

10 “(B) the applicable Federal rate deter-
11 mined under section 1274(d) with respect to
12 the existing debt instrument.

13 “(c) TREATMENT OF INVESTMENT UNITS.—Rules
14 similar to the rules of section 1273(c)(2) shall apply for
15 purposes of this section.”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Section 108(e)(10)(B) is amended by
18 striking “and 1274” and inserting “, 1274, and
19 1274B”.

20 (B) Section 1274(c)(3), as amended by the
21 preceding provisions of this Act, is amended by
22 adding at the end the following new subpara-
23 graph:

1 “(F) CERTAIN MODIFIED DEBT.—Any debt
2 instrument the issue price of which is deter-
3 mined under section 1274B.”.

4 (C) The table of sections for subpart A of
5 part V of subchapter P is amended by inserting
6 after the item relating to section 1274A the fol-
7 lowing new item:

 “Sec. 1274B. Determination of issue price in the case of an exchange of debt
 instruments.”.

8 (b) NONRECOGNITION OF GAIN OR LOSS BY HOLD-
9 ER.—

10 (1) IN GENERAL.—Section 1037 is amended to
11 read as follows:

12 **“SEC. 1037. CERTAIN EXCHANGES OF DEBT INSTRUMENTS.**

13 “(a) NONRECOGNITION OF GAIN OR LOSS.—No gain
14 or loss shall be recognized to the holder of a debt instru-
15 ment if such existing debt instrument is exchanged solely
16 for a new debt instrument (whether by exchange or signifi-
17 cant modification) issued by the same issuer.

18 “(b) PROPERTY ATTRIBUTABLE TO ACCRUED INTER-
19 EST.—Subsection (a) shall not apply to the extent that
20 any property received is attributable to interest which ac-
21 crued on the existing debt instrument on or after the be-
22 ginning of the holder’s holding period of such instrument.

23 “(c) LIMITATION ON GAIN RECOGNITION IN CASE OF
24 EXCHANGE NOT SOLELY FOR A NEW DEBT INSTRU-

1 MENT.—In the case of an exchange of a debt instrument
2 to which section 1035(d) applies, the amount of gain rec-
3 ognized shall not exceed the amount of gain which would
4 have been recognized if section 1274B did not apply.

5 “(d) CROSS REFERENCES.—

6 “(1) For rules relating to securities exchanged
7 or distributed in a reorganization, etc., see sections
8 354, 355, and 356.

9 “(2) For rules relating to recognition of gain or
10 loss where exchange was not made solely for another
11 debt instrument of the issuer, see subsections (d)
12 and (e) of section 1035.

13 “(3) For rules relating to basis of obligations
14 acquired in an exchange described in subsection (a),
15 see subsection (f) of section 1035.”

16 (2) CLERICAL AMENDMENT.—The table of sec-
17 tions for part III of subchapter O of chapter 1 is
18 amended by striking the item relating to section
19 1037 and inserting the following new item:

“Sec. 1037. Certain exchanges of debt instruments.”

20 (c) APPLICATION TO EXCESS PRINCIPAL RULES FOR
21 CORPORATE REORGANIZATIONS.—

22 (1) EXCHANGES OF SECURITIES IN REORGA-
23 NIZATIONS.—

24 (A) IN GENERAL.—Section 354(a)(2)(A)(i)
25 is amended to read as follows:

1 “(i) the issue price of any such securi-
2 ties received exceeds the adjusted issue
3 price of any such securities surrendered,
4 or”.

5 (B) DEFINITIONS.—Section 354(a)(2) is
6 amended by inserting after subparagraph (C)
7 the following new subparagraph:

8 “(D) DEFINITIONS.—For purposes of this
9 paragraph—

10 “(i) ISSUE PRICE.—The issue price of
11 any security shall be determined under sec-
12 tions 1273, 1274, and 1274B.

13 “(ii) ADJUSTED ISSUE PRICE.— The
14 adjusted issue price of any security shall
15 be determined under section 1275(a)(5).”.

16 (2) SECTION 355 TRANSACTIONS.—Section
17 355(a)(3)(A)(i) is amended to read as follows:

18 “(i) the issue price (as defined in sec-
19 tion 354(a)(2)(D)) of the securities in the
20 controlled corporation which are received
21 exceeds the adjusted issue price (as so de-
22 fined) of the securities which are surren-
23 dered in connection with such distribution,
24 or”.

25 (3) SECTION 356 TRANSACTIONS.—

1 (A) IN GENERAL.—Section
2 356(d)(2)(B)(ii) is amended to read as follows:

3 “(ii) the issue price (as defined in sec-
4 tion 354(a)(2)(D)) of such securities re-
5 ceived exceeds the adjusted issue price (as
6 so defined) of such securities surren-
7 dered.”.

8 (B) CONFORMING AMENDMENTS.—

9 (i) Section 356(d)(2)(B) is amended
10 in the matter following clause (ii)—

11 (I) by striking “the fair market
12 value of such excess” and inserting
13 “the amount of such excess”, and

14 (II) by striking “the entire prin-
15 cipal amount” and inserting “the en-
16 tire issue price (as so defined)”.

17 (ii) Section 356(d)(2)(C) is amended
18 to read as follows:

19 “(C) GREATER PRINCIPAL AMOUNT IN
20 SECTION 355 TRANSACTION.—If, in an exchange
21 or distribution described in section 355, the
22 issue price (as defined in section 354(a)(2)(D))
23 of the securities in the controlled corporation
24 which are received exceeds the adjusted issue
25 price (as so defined) of the securities in the dis-

1 tributing corporation which are surrendered,
2 then, with respect to such securities received,
3 the term ‘other property’ means only the
4 amount of such excess.”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to transactions after December 31,
7 2014.

8 **SEC. 3413. COORDINATION WITH RULES FOR INCLUSION**
9 **NOT LATER THAN FOR FINANCIAL ACCOUNT-**
10 **ING PURPOSES.**

11 (a) IN GENERAL.—Section 451(b), as amended by
12 the preceding provisions of this Act, is amended by insert-
13 ing immediately after the heading thereof (and before
14 paragraph (1) thereof) the following: “Notwithstanding
15 any other provision of law (including part V of subchapter
16 P)—”.

17 (b) EFFECTIVE DATE; CHANGE IN METHOD OF AC-
18 COUNTING.—The amendment made by subsection (a) shall
19 be treated for purposes of section 3303(g) as though such
20 amendment were made by section 3303(a).

21 **SEC. 3414. RULES REGARDING CERTAIN GOVERNMENT**
22 **DEBT.**

23 (a) REPEAL OF CERTAIN SUPERCEDED RULES.—
24 Subpart B of part II of subchapter E of chapter 1 is
25 amended by striking section 454 (and by striking the item

1 relating to such section in the table of sections for such
2 subpart).

3 (b) PRESERVATION OF RULES RELATED TO UNITED
4 STATES SAVINGS BONDS.—Subpart A of part V of sub-
5 chapter P of chapter 1 is amended by inserting after sec-
6 tion 1272 the following new section:

7 **“SEC. 1272A. UNITED STATES SAVINGS BONDS.**

8 “(a) ELECTION TO INCLUDE INCREASE IN REDEMP-
9 TION PRICE IN INCOME.—A taxpayer holding a United
10 States savings bond may elect (on the taxpayer’s return
11 for the taxable year) to treat any increase in the redemp-
12 tion price as income received in the taxable year. If any
13 such election is made with respect to any such obligation,
14 it shall apply also to all such obligations owned by the
15 taxpayer at the beginning of the first taxable year to which
16 it applies and to all such obligations thereafter acquired
17 by the taxpayer and shall be binding for all subsequent
18 taxable years, unless revoked with the consent of the Sec-
19 retary. In the case of any such obligations owned by the
20 taxpayer at the beginning of the first taxable year to which
21 the taxpayer’s election applies, the increase in the redemp-
22 tion price of such obligations occurring between the date
23 of acquisition and the first day of such taxable year shall
24 also be treated as income received in such taxable year.

1 “(b) TREATMENT UPON REDEMPTION OR FINAL MA-
2 TURITY.—The increase in redemption value of a United
3 States savings bond (to the extent not previously included
4 in gross income) in excess of the adjusted basis of such
5 bond shall be included in gross income in the earlier of
6 the taxable year in which the bond is redeemed or in the
7 taxable year of final maturity.

8 “(c) CROSS REFERENCES.—

9 “(1) For exception from current inclusion of
10 original issue discount, see section 1272(a)(2)(B).

11 “(2) For exception from market discount rules,
12 see section 1279(a)(1)(B)(iii).”.

13 “(e) CONFORMING AMENDMENTS.—

14 (1) Section 852(b)(2), as amended by the pre-
15 ceding provisions of this Act, is amended by striking
16 subparagraph (E) and redesignating subparagraphs
17 (F) and (G) as subparagraphs (E) and (F), respec-
18 tively.

19 (2) Section 1283(e)(3), as amended by the pre-
20 ceding provisions of this Act, is amended by striking
21 all that precedes “shall not apply” and inserting the
22 following:

23 “(3) COORDINATION WITH SECTION 1271.—Sec-
24 tion 1271(a)(3)”.

1 (3) Section 7871(a)(6) is amended by adding
2 “and” at the end of subparagraph (A) and by strik-
3 ing subparagraph (C).

4 (4) The table of sections for subpart A of part
5 V of subchapter P of chapter 1 is amended by in-
6 serting after the item relating to section 1272 the
7 following new item:

“Sec. 1272A. United States savings bonds.”.

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

11 **PART 3—CERTAIN RULES FOR DETERMINING**
12 **GAIN AND LOSS**

13 **SEC. 3421. COST BASIS OF SPECIFIED SECURITIES DETER-**
14 **MINED WITHOUT REGARD TO IDENTIFICA-**
15 **TION.**

16 (a) IN GENERAL.—Section 1012 is amended by add-
17 ing at the end the following new subsection:

18 “(e) COST BASIS OF SPECIFIED SECURITIES DETER-
19 MINED WITHOUT REGARD TO IDENTIFICATION.—Except
20 to the extent otherwise provided in this section or in regu-
21 lations thereunder permitting the use of an average basis
22 method for determining cost, in the case of the sale, ex-
23 change, or other disposition of a specified security (within
24 the meaning of section 6045(g)(3)(B)), the basis (and

1 holding period) of such security shall be determined on
2 a first-in first-out basis.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1012(c)(1) is amended by striking
5 “the conventions prescribed by regulations under
6 this section” and inserting “the method applicable
7 for determining the cost of such security”.

8 (2) Section 1012(c)(2)(A) is amended by strik-
9 ing “section 1012” and inserting “this section (as in
10 effect prior to the enactment of the Tax Reform Act
11 of 2014)”.

12 (3) Section 6045(g)(2)(B)(i)(I) is amended by
13 striking “unless the customer notifies the broker by
14 means of making an adequate identification of the
15 stock sold or transferred”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to sales, exchanges, and other dis-
18 positions after December 31, 2014.

19 **SEC. 3422. WASH SALES BY RELATED PARTIES.**

20 (a) APPLICATION OF WASH SALE RULES TO RE-
21 LATED PARTIES.—Subsection (a) of section 1091 is
22 amended by striking “the taxpayer has acquired” and in-
23 serting “the taxpayer (or a related party) has acquired”.

24 (b) MODIFICATION OF BASIS ADJUSTMENT RULE TO
25 PREVENT TRANSFER OF LOSSES TO RELATED PAR-

1 TIES.—Subsection (d) of section 1091 is amended to read
2 as follows:

3 “(d) ADJUSTMENT TO BASIS IN CASE OF WASH
4 SALE.—If the taxpayer (or the taxpayer’s spouse) ac-
5 quires substantially identical stock or securities during the
6 period which—

7 “(1) begins 30 days before the disposition with
8 respect to which a deduction was disallowed under
9 subsection (a), and

10 “(2) ends with the close of the taxpayer’s first
11 taxable year which begins after such disposition,
12 the basis of such stock or securities shall be increased by
13 the amount of the deduction so disallowed (reduced by any
14 amount of such deduction taken into account under this
15 subsection to increase the basis of stock or securities pre-
16 viously acquired).”.

17 (e) RELATED PARTY.—Section 1091 is amended by
18 adding at the end the following new subsection:

19 “(g) RELATED PARTY.—For purposes of this sec-
20 tion—

21 “(1) IN GENERAL.—The term ‘related party’
22 means—

23 “(A) the taxpayer’s spouse,

1 “(B) any dependent of the taxpayer and
2 any other taxpayer with respect to whom the
3 taxpayer is a dependent,

4 “(C) any individual, corporation, partner-
5 ship, trust, or estate which controls, or is con-
6 trolled by, (within the meaning of section
7 954(d)(3)) the taxpayer or any individual de-
8 scribed in subparagraph (A) or (B) with respect
9 to the taxpayer (or any combination thereof),

10 “(D) any individual retirement plan, Ar-
11 cher MSA (as defined in section 220(d)), or
12 health savings account (as defined in section
13 223(d)), of the taxpayer or of any individual de-
14 scribed in subparagraph (A) or (B) with respect
15 to the taxpayer,

16 “(E) any account under a qualified tuition
17 program described in section 529 or a Coverdell
18 education savings account (as defined in section
19 530(b)) if the taxpayer, or any individual de-
20 scribed in subparagraph (A) or (B) with respect
21 to the taxpayer, is the designated beneficiary of
22 such account or has the right to make any deci-
23 sion with respect to the investment of any
24 amount in such account, and

25 “(F) any account under—

- 1 “(i) a plan described in section
2 401(a),
3 “(ii) an annuity plan described in sec-
4 tion 403(a),
5 “(iii) an annuity contract described in
6 section 403(b), or
7 “(iv) an eligible deferred compensa-
8 tion plan described in section 457(b) and
9 maintained by an employer described in
10 section 457(e)(1)(A),

11 if the taxpayer or any individual described in
12 subparagraph (A) or (B) with respect to the
13 taxpayer has the right to make any decision
14 with respect to the investment of any amount in
15 such account .

16 “(2) RULES FOR DETERMINING STATUS.—

17 “(A) RELATIONSHIPS DETERMINED AT
18 TIME OF ACQUISITION.—Determinations under
19 paragraph (1) shall be made as of the time of
20 the purchase or exchange referred to in sub-
21 section (a) except that determinations under
22 subparagraphs (A) and (B) of paragraph (1)
23 shall be made for the taxable year which in-
24 cludes such purchase or exchange.

1 “(B) DETERMINATION OF MARITAL STA-
2 TUS.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), marital status shall be
5 determined under section 7703.

6 “(ii) SPECIAL RULE FOR MARRIED IN-
7 DIVIDUALS FILING SEPARATELY AND LIV-
8 ING APART.—A husband and wife who—

9 “(I) file separate returns for any
10 taxable year, and

11 “(II) live apart at all times dur-
12 ing such taxable year,

13 shall not be treated as married individuals.

14 “(3) REGULATIONS.—The Secretary shall issue
15 such regulations or other guidance as may be nec-
16 essary to prevent the avoidance of the purposes of
17 this subsection, including regulations which treat
18 persons as related parties if such persons are formed
19 or availed of to avoid the purposes of this sub-
20 section.”.

21 “(d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to sales and other dispositions
23 after December 31, 2014.

1 **SEC. 3423. NONRECOGNITION FOR DERIVATIVE TRANS-**
2 **ACTIONS BY A CORPORATION WITH RESPECT**
3 **TO ITS STOCK.**

4 (a) IN GENERAL.—Section 1032 is amended to read
5 as follows:

6 **“SEC. 1032. DERIVATIVE TRANSACTIONS BY A CORPORA-**
7 **TION WITH RESPECT TO ITS STOCK.**

8 “(a) IN GENERAL.—Except as otherwise provided in
9 this section or section 76, section 1032 derivative items
10 of a corporation shall not be taken into account in deter-
11 mining such corporation’s liability for tax under this sub-
12 title.

13 “(b) INCOME RECOGNITION ON CERTAIN FORWARD
14 CONTRACTS.—

15 “(1) IN GENERAL.—If—

16 “(A) a corporation acquires its stock, and

17 “(B) such acquisition is part of a plan (or
18 series of related transactions) pursuant to
19 which the corporation enters into a forward
20 contract with respect to its stock,

21 such corporation shall include amounts in income as
22 if the excess of the amount to be received under the
23 forward contract over the fair market value of the
24 stock as of the date the corporation entered into the
25 forward contract were original issue discount on a
26 debt instrument acquired on such date. The pre-

1 ceding sentence shall apply only to the extent that
2 the amount of stock involved in the forward contract
3 does not exceed the amount acquired as described in
4 subparagraph (A).

5 “(2) PLAN PRESUMED TO EXIST.—If a corpora-
6 tion enters into a forward contract with respect to
7 its stock within the 60-day period beginning on the
8 date which is 30 days before the date that the cor-
9 poration acquires its stock, such acquisition shall be
10 treated as pursuant to a plan described in paragraph
11 (1)(B) unless it is established that entering into
12 such contract and such acquisition are not pursuant
13 to a plan or series of related transactions.

14 “(c) SECTION 1032 DERIVATIVE ITEMS.—For pur-
15 poses of this section, the term ‘section 1032 derivative
16 item’ means any item of income, gain, loss, or deduction
17 if—

18 “(1) such item arises out of the rights or obli-
19 gations under any derivative (as defined in section
20 486) to the extent such derivative relates to the cor-
21 poration’s stock (or is attributable to any transfer or
22 extinguishment of any such right or obligation), or

23 “(2) such item arises under any other contract
24 or position but only to the extent that such item re-

1 fleets (or is determined by reference to) changes in
2 the value of such stock or distributions thereon.

3 Such term shall not include any deduction with respect
4 to which section 83(h) applies and shall not include any
5 deduction for any item which is in the nature of compensa-
6 tion for services rendered. For purposes of this subpara-
7 graph, de minimis relationships, as determined by the Sec-
8 retary, shall be disregarded.

9 “(d) TREASURY STOCK TREATED AS STOCK.—Any
10 reference in this section to stock shall be treated as includ-
11 ing a reference to treasury stock.

12 “(e) REGULATIONS.—The Secretary shall prescribe
13 such regulations or other guidance as may be appropriate
14 to carry out the purposes of this section, including regula-
15 tions or other guidance which—

16 “(1) treat the portion of an instrument which
17 is described in subsection (c)(1) separately from the
18 portion of such instrument which is not so described,
19 and

20 “(2) treat section 1032 derivative items as con-
21 tributions to the capital of the corporation to the ex-
22 tent that the application of this section would be in-
23 consistent with the purposes of section 76(b).”.

1 (b) CLERICAL AMENDMENT.—The item relating to
2 section 1032 in the table of sections for part III of sub-
3 chapter O of chapter 1 is amended to read as follows:

“Sec. 1032. Derivative transactions by a corporation with respect to its stock.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to transactions entered into after
6 the date of the enactment of this Act.

7 **PART 4—TAX FAVORED BONDS**

8 **SEC. 3431. TERMINATION OF PRIVATE ACTIVITY BONDS.**

9 (a) IN GENERAL.—Paragraph (1) of section 103(b)
10 is amended—

11 (1) by striking “which is not a qualified bond
12 (within the meaning of section 141)”, and

13 (2) by striking “WHICH IS NOT A QUALIFIED
14 BOND” in the heading thereof.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 141 is amended by striking sub-
17 section (e).

18 (2) Subpart A of part IV of subchapter B of
19 chapter 1 is amended by striking sections 142, 143,
20 144, 145, 146, and 147 (and by striking each of the
21 items relating to such sections in the table of sec-
22 tions for such subpart).

23 (3) Section 25 is amended by adding at the end
24 the following new subsection:

1 “(j) COORDINATION WITH REPEAL OF PRIVATE AC-
2 TIVITY BONDS.—Any reference to section 143, 144, or
3 146 shall be treated as a reference to such section as in
4 effect before its repeal by the Tax Reform Act of 2014.”.

5 (4) Section 26(b)(2) is amended by striking
6 subparagraph (D).

7 (5) Section 141(b) is amended by striking para-
8 graphs (5) and (9) and by redesignating paragraphs
9 (6), (7), and (8) as paragraphs (5), (6), and (7), re-
10 spectively.

11 (6) Section 141(d) is amended by striking para-
12 graph (5) and by redesignating paragraphs (6) and
13 (7) as paragraphs (5) and (6).

14 (7) Section 148(b)(2)(E) is amended by strik-
15 ing “in the case of a bond other than a private activ-
16 ity bond,”.

17 (8) Section 148(b)(3) is amended to read as fol-
18 lows:

19 “(3) TAX-EXEMPT BONDS NOT TREATED AS IN-
20 VESTMENT PROPERTY.—The term ‘investment prop-
21 erty’ does not include any tax-exempt bond.”.

22 (9) Section 148(f)(3) is amended by striking
23 “or is a private activity bond” in the fourth sen-
24 tence.

25 (10) Section 148(f)(4) is amended—

1 (A) by striking “(determined in accordance
2 with section 147(b)(2)(A))” in the flush matter
3 following subparagraph (A)(ii),

4 (B) by striking the last sentence of sub-
5 paragraph (D)(v), and

6 (C) by adding at the end the following new
7 subparagraph:

8 “(E) AVERAGE MATURITY.—For purposes
9 of this paragraph, the average maturity of any
10 issue shall be determined by taking into account
11 the respective issue prices of the bonds issued
12 as part of such issue.”.

13 (11) Section 148(f)(4)(A) is amended in the
14 flush matter after clause (ii) by striking “In the case
15 of an issue no bond of which is a private activity
16 bond, clause” and inserting “Clause”.

17 (12) Section 148(f)(4)(B)(ii) is amended—

18 (A) by striking subclause (II), and

19 (B) by striking “CERTAIN BONDS.—” and
20 all that follows through “issue described in sub-
21 clause (II)” and inserting “CERTAIN BONDS.—
22 In the case of an issue no bond of which is a
23 tax or revenue anticipation bond”.

24 (13)(A) Section 148(f)(4)(C)(iv) is amended to
25 read as follows:

1 “(iv) CONSTRUCTION ISSUE.—For
2 purposes of this subparagraph, the term
3 ‘construction issue’ means any issue if at
4 least 75 percent of the available construc-
5 tion proceeds of such issue are to be used
6 for construction expenditures with respect
7 to property which is to be owned by a gov-
8 ernmental unit.”.

9 (B) Section 148(f)(4)(C) is amended by re-
10 designating clauses (v) through (xvii) as clauses
11 (viii) through (xx), respectively, and by insert-
12 ing after clause (iv) the following new clauses:

13 “(v) CONSTRUCTION.—For purposes
14 of this subparagraph, the term ‘construc-
15 tion’ includes reconstruction and rehabili-
16 tation.

17 “(vi) SAFE HARBOR FOR LEASES AND
18 MANAGEMENT CONTRACTS.—For purposes
19 of this subparagraph, property leased by a
20 governmental unit shall be treated as
21 owned by such governmental unit if—

22 “(I) the lessee makes an irrev-
23 ocable election (binding on the lessee
24 and all successors in interest under
25 the lease) not to claim depreciation or

1 an investment credit with respect to
2 such property,

3 “(II) the lease term (as defined
4 in section 168(h)(1)) is not more than
5 80 percent of the reasonably expected
6 economic life of the property, and

7 “(III) the lessee has no option to
8 purchase the property other than at
9 fair market value (as of the time such
10 option is exercised).

11 “(vii) DETERMINATION OF ECONOMIC
12 LIFE.—For purposes of clause (vi), the
13 reasonably expected economic life of any
14 facility shall be determined as of the later
15 of—

16 “(I) the date on which the bonds
17 are issued, or

18 “(II) the date on which the facil-
19 ity is placed in service (or expected to
20 be placed in service).”.

21 (C) Section 148(f)(4)(D) is amended by
22 striking “subparagraph (C)(iv)” each place it
23 appears and inserting “subparagraph (C)(v)”.

24 (14) Section 148(f)(4)(D)(i) is amended—

25 (A) by striking subclause (II),

1 (B) by striking “(other than private activ-
2 ity bonds)” in subclause (IV), and

3 (C) by redesignating subclauses (III) and
4 (IV) (as amended by subparagraph (B)) as sub-
5 clauses (II) and (III).

6 (15) Section 148(f)(4)(D)(ii) is amended by
7 striking “subclause (IV)” both places it appears and
8 inserting “subclause (III)”.

9 (16) Section 148(f)(4)(D)(iii) is amended by
10 striking “subclause (IV)” and inserting “subclause
11 (III)”.

12 (17) Section 148(f)(4)(D)(iv)(II) is amended by
13 striking “clause (i)(IV)” and inserting “clause
14 (i)(III)”.

15 (18) Section 148(f)(4)(D)(vi) is amended by
16 striking the last sentence.

17 (19) Section 148(f)(7) is amended by striking
18 subparagraph (A) and by redesignating subpara-
19 graphs (B) and (C) as subparagraphs (A) and (B).

20 (20) Section 149(b)(3) is amended—

21 (A) by striking subparagraph (C) and by
22 redesignating subparagraphs (D) and (E) as
23 subparagraphs (C) and (D), and

1 (B) by striking “subparagraph (E)” in
2 subparagraph (A)(iv) and inserting “subpara-
3 graph (D)”.

4 (21) Section 149(e)(2) is amended—

5 (A) by striking subparagraphs (C), (D),
6 and (F) and by redesignating subparagraphs
7 (E) and (G) as subparagraphs (C) and (D), re-
8 spectively, and

9 (B) by striking the second sentence.

10 (22) Section 149(f)(6) is amended—

11 (A) by striking subparagraph (B), and

12 (B) by striking “For purposes of this sub-
13 section” and all that follows through “The
14 term” and inserting the following: “For pur-
15 poses of this subsection, the term”.

16 (23) Section 150 is amended by striking sub-
17 sections (b) and (c) and by redesignating subsections
18 (d) and (e) as subsections (b) and (c), respectively.

19 (24) Section 150(e)(3) is amended to read as
20 follows:

21 “(3) PUBLIC APPROVAL REQUIREMENT.—A
22 bond shall not be treated as part of an issue which
23 meets the requirements of paragraph (1) unless such
24 bond satisfies the requirements of section 147(f)(2)

1 (as in effect before its repeal by the Tax Reform Act
2 of 2014).”.

3 (25) Section 269A(b)(3) is amended by striking
4 “144(a)(3)” and inserting “414(n)(6)(A)”.

5 (26) Section 414(m)(5) is amended by striking
6 “section 144(a)(3)” and inserting “subsection
7 (n)(6)(A)”.

8 (27) Section 414(n)(6)(A) is amended to read
9 as follows:

10 “(A) RELATED PERSONS.—A person is a
11 related person to another person if—

12 “(i) the relationship between such per-
13 sons would result in a disallowance of
14 losses under section 267 or 707(b), or

15 “(ii) such persons are members of the
16 same controlled group of corporations (as
17 defined in section 1563(a), except that
18 ‘more than 50 percent’ shall be substituted
19 for ‘at least 80 percent’ each place it ap-
20 pears therein).”.

21 (28) Section 6045(e)(4)(B) is amended by in-
22 serting “(as in effect before its repeal by the Tax
23 Reform Act of 2014)” after “section 143(m)(3)”.

1 (29) Section 6654(f)(1) is amended by inserting
2 “(as in effect before its repeal by the Tax Reform
3 Act of 2014)” after “section 143(m)”.

4 (30) Section 7871(c) is amended—
5 (A) by striking paragraphs (2) and (3),
6 and

7 (B) by striking “TAX-EXEMPT BONDS.—”
8 and all that follows through “Subsection (a) of
9 section 103” and inserting the following: “TAX-
10 EXEMPT BONDS.—Subsection (a) of section
11 103”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to bonds issued after December
14 31, 2014.

15 **SEC. 3432. TERMINATION OF CREDIT FOR INTEREST ON**
16 **CERTAIN HOME MORTGAGES.**

17 (a) IN GENERAL.—Section 25, as amended by the
18 preceding provisions of this Act, is amended by adding at
19 the end the following new subsection:

20 “(k) TERMINATION.—No credit shall be allowed
21 under this section with respect to any mortgage credit cer-
22 tificate issued after December 31, 2014.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years ending after De-
25 cember 31, 2014.

1 SEC. 3433. REPEAL OF ADVANCE REFUNDING BONDS.

2 (a) IN GENERAL.—Paragraph (1) of section 149(d)
3 is amended by striking “as part of an issue described in
4 paragraph (2), (3), or (4).” and inserting “to advance re-
5 fund a bond.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 149(d) is amended by striking para-
8 graphs (2), (3), (4), and (6) and by redesignating
9 paragraphs (5) and (7) as paragraphs (2) and (3).

10 (2) Section 148(f)(4)(C), as amended by the
11 preceding provisions of this Act, is amended by
12 striking clause (xvii) and by redesignating clauses
13 (xviii), (xix), and (xx) as clauses (xvii), (xviii), and
14 (xix), respectively.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to advance refunding bonds issued
17 after December 31, 2014.

18 SEC. 3434. REPEAL OF TAX CREDIT BOND RULES.

19 (a) IN GENERAL.—Part IV of subchapter A of chap-
20 ter 1 is amended by striking subparts H, I, and J (and
21 by striking the items relating to such subparts in the table
22 of subparts for such part).

23 (b) PAYMENTS TO ISSUERS.—Subchapter B of chap-
24 ter 65 is amended by striking section 6431 (and by strik-
25 ing the item relating to such section in the table of sec-
26 tions for such subchapter).

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 6211(b)(4)(A) is amended by strik-
3 ing “and 6431”.

4 (2) Section 6401(b)(1) is amended by striking
5 “G, H, I, and J” and inserting “and G”.

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

9 **Subtitle F—Insurance Reforms**

10 **SEC. 3501. EXCEPTION TO PRO RATA INTEREST EXPENSE**

11 **DISALLOWANCE FOR CORPORATE-OWNED** 12 **LIFE INSURANCE RESTRICTED TO 20-PER-** 13 **CENT OWNERS.**

14 (a) IN GENERAL.—Subparagraph (A) of section
15 264(f)(4) is amended—

16 (1) by striking “policy or contract)—” and all
17 that follows through “A policy or contract” and in-
18 serting “policy or contract) a 20-percent owner of
19 such entity. A policy or contract”, and

20 (2) by striking “, OFFICERS, DIRECTORS, AND
21 EMPLOYEES” in the heading.

22 (b) CONFORMING AMENDMENT.—Section 264(f)(4)
23 is amended by striking subparagraph (E).

24 (c) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to contracts issued after December

1 31, 2014. For purposes of the preceding sentence, any ma-
2 terial increase in the death benefit or other material
3 change in the contract shall be treated as a new contract.

4 **SEC. 3502. NET OPERATING LOSSES OF LIFE INSURANCE**
5 **COMPANIES.**

6 (a) IN GENERAL.—Paragraph (5) of section 805(a)
7 is amended to read as follows:

8 “(5) NET OPERATING LOSS DEDUCTION.—The
9 deduction allowed under section 172, determined—

10 “(A) by treating the net operating loss for
11 any taxable year as equal to the excess (if any)
12 of—

13 “(i) the life insurance deductions for
14 such taxable year, over

15 “(ii) the life insurance gross income
16 for such taxable year, and

17 “(B) by applying subsection (d)(5) thereof
18 with the modifications described in paragraph
19 (4) of this subsection.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Part I of subchapter L of chapter 1 is
22 amended by striking section 810 (and by striking
23 the item relating to such section in the table of sec-
24 tions for such part).

1 (2) Part III of subchapter L of chapter 1 is
2 amended by striking section 844 (and by striking
3 the item relating to such section in the table of sec-
4 tions for such part).

5 (3) Section 381 is amended by striking sub-
6 section (d).

7 (4) Section 805(a)(4)(B)(i), as redesignated by
8 the preceding provisions of this Act, is amended to
9 read as follows:

10 “(ii) the net operating loss deduction
11 provided by paragraph (5),”.

12 (5) Section 805(b)(2)(A)(iii), as redesignated
13 by the preceding provisions of this Act, is amended
14 to read as follows:

15 “(iv) any net operating loss carryback
16 to the taxable year under section 172 (as
17 applied pursuant to subsection (a)(5)),
18 and”.

19 (6) Section 805(b) is amended by striking para-
20 graph (4) and redesignating paragraph (5) as para-
21 graph (4).

22 (7) Section 953(b)(1)(A), as redesignated by
23 the preceding provisions of this Act, is amended by
24 striking “operations” and inserting “net operating”.

1 (8) Section 1351(i)(3) is amended by striking
2 “or the operations loss deduction under section
3 810,”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to losses arising in taxable years
6 beginning after December 31, 2014.

7 **SEC. 3503. REPEAL OF SMALL LIFE INSURANCE COMPANY**
8 **DEDUCTION.**

9 (a) IN GENERAL.—Part I of subchapter L of chapter
10 1 is amended by striking section 806 (and by striking the
11 item relating to such section in the table of sections for
12 such part).

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 453B(e) is amended—

15 (A) by striking “(as defined in section
16 806(b)(3))” in paragraph (2)(B), and

17 (B) by adding at the end the following new
18 paragraph:

19 “(3) NONINSURANCE BUSINESS.—

20 “(A) IN GENERAL.—For purposes of this
21 subsection, the term ‘noninsurance business’
22 means any activity which is not an insurance
23 business.

24 “(B) CERTAIN ACTIVITIES TREATED AS IN-
25 SURANCE BUSINESSES.—For purposes of sub-

1 paragraph (A), any activity which is not an in-
2 surance business shall be treated as an insur-
3 ance business if—

4 “(i) it is of a type traditionally carried
5 on by life insurance companies for invest-
6 ment purposes, but only if the carrying on
7 of such activity (other than in the case of
8 real estate) does not constitute the active
9 conduct of a trade or business, or

10 “(ii) it involves the performance of ad-
11 ministrative services in connection with
12 plans providing life insurance, pension, or
13 accident and health benefits.”.

14 (2) Section 465(c)(7)(D)(v)(II) is amended by
15 striking “section 806(b)(3)” and inserting “section
16 453B(e)(3)”.

17 (3) Section 801(a)(2) is amended by striking
18 subparagraph (C).

19 (4) Section 804 is amended by striking
20 “means—” and all that follows and inserting
21 “means the general deductions provided in section
22 805.”.

23 (5) Section 805(a)(4)(B) is amended by strik-
24 ing clause (i) and by redesignating clauses (ii), (iii),
25 and (iv) as clauses (i), (ii), and (iii), respectively.

1 (6) Section 805(b)(2)(A) is amended by strik-
2 ing clause (iii) and by redesignating clauses (iv) and
3 (v) as clauses (iii) and (iv), respectively.

4 (7) Section 815(c)(2)(A) is amended by insert-
5 ing “and” at the end of clause (i), by striking clause
6 (ii), and by redesignating clause (iii) as clause (ii).

7 (8) Section 842(e) is amended by striking para-
8 graph (1) and by redesignating paragraphs (2) and
9 (3) as paragraphs (1) and (2), respectively.

10 (9) Section 953(b)(1) is amended by striking
11 subparagraph (A) and by redesignating subpara-
12 graphs (B) and (C) as subparagraphs (A) and (B),
13 respectively.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2014.

17 **SEC. 3504. COMPUTATION OF LIFE INSURANCE TAX RE-**
18 **SERVES.**

19 (a) IN GENERAL.—Subparagraph (B) of section
20 807(d)(2) is amended to read as follows:

21 “(B) an interest rate equal to the sum
22 of—

23 “(i) the applicable Federal interest
24 rate, plus

25 “(ii) 3.5 percentage points, and”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Paragraph (4) of section 807(d) is amended
3 to read as follows:

4 “(4) APPLICABLE FEDERAL INTEREST RATE.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), the term ‘applicable Federal
7 interest rate’ means the annual rate determined
8 by the Secretary under subparagraph (C) for
9 the calendar year in which the contract was
10 issued.

11 “(B) ELECTION TO RECOMPUTE FEDERAL
12 INTEREST RATE EVERY 5 YEARS.—For pur-
13 poses of this subsection—

14 “(i) IN GENERAL.—In computing the
15 amount of the reserve with respect to any
16 contract to which an election under this
17 subparagraph applies for periods during
18 any recomputation period, the applicable
19 Federal interest rate shall be the annual
20 rate determined by the Secretary under
21 subparagraph (C) for the 1st year of such
22 period. No change in the applicable Fed-
23 eral interest rate shall be made under the
24 preceding sentence unless such change

1 would equal or exceed $\frac{1}{2}$ of 1 percentage
2 point.

3 “(ii) RECOMPUTATION PERIOD.—For
4 purposes of clause (i), the term ‘recompu-
5 tation period’ means, with respect to any
6 contract, the 5 calendar year period begin-
7 ning with the 5th calendar year beginning
8 after the calendar year in which the con-
9 tract was issued (and each subsequent 5
10 calendar year period).

11 “(iii) ELECTION.—An election under
12 this subparagraph shall apply to all con-
13 tracts issued during the calendar year for
14 which the election was made or during any
15 subsequent calendar year unless such elec-
16 tion is revoked with the consent of the Sec-
17 retary.

18 “(iv) SPREAD NOT AVAILABLE.—Sub-
19 section (f) shall not apply to any adjust-
20 ment required under this paragraph.

21 “(C) RATE OF INTEREST.—

22 “(i) IN GENERAL.—For purposes of
23 this paragraph, the rate of interest deter-
24 mined under this subparagraph shall be

1 the annual rate determined by the Sec-
2 retary under clause (ii).

3 “(ii) DETERMINATION OF ANNUAL
4 RATE.—

5 “(I) IN GENERAL.—The annual
6 rate determined by the Secretary
7 under this clause for any calendar
8 year shall be a rate equal to the aver-
9 age of the applicable Federal mid-
10 term rates (as defined in section
11 1274(d) but based on annual
12 compounding) effective as of the be-
13 ginning of each of the calendar
14 months in the test period.

15 “(II) TEST PERIOD.—For pur-
16 poses of subclause (I), the test period
17 is the most recent 60-calendar-month
18 period ending before the beginning of
19 the calendar year for which the deter-
20 mination is made.”.

21 (2) The first sentence following paragraph (6)
22 in section 807(e) is amended by striking “the appli-
23 cable Federal interest rate under subsection
24 (d)(2)(B)(i), the prevailing State assumed interest
25 rate under subsection (d)(2)(B)(ii),” and inserting

1 “the interest rate determined under subsection
2 (d)(2)(B)”.

3 (3) Section 808 is amended by adding at the
4 end the following new subsection:

5 “(g) PREVAILING STATE ASSUMED INTEREST
6 RATE.—For purposes of this subchapter—

7 “(1) IN GENERAL.—The term ‘prevailing State
8 assumed interest rate’ means, with respect to any
9 contract, the highest assumed interest rate per-
10 mitted to be used in computing life insurance re-
11 serves for insurance contracts or annuity contracts
12 (as the case may be) under the insurance laws of at
13 least 26 States. For purposes of the preceding sen-
14 tence, the effect of nonforfeiture laws of a State on
15 interest rates for reserves shall not be taken into ac-
16 count.

17 “(2) WHEN RATE DETERMINED.—The pre-
18 vailing State assumed interest rate with respect to
19 any contract shall be determined as of the beginning
20 of the calendar year in which the contract was
21 issued.”.

22 (4) Paragraph (1) of section 811(d) is amended
23 by striking “the greater of the prevailing State as-
24 sumed interest rate or applicable Federal interest

1 rate in effect under section 807” and inserting “the
2 interest rate in effect under section 807(d)(2)(B)”.

3 (5) Subparagraph (A) of section 846(f)(6) is
4 amended by striking “except that” and all that fol-
5 lows and inserting “except that the limitation of
6 subsection (a)(3) shall apply in lieu of the limitation
7 of the last sentence of section 807(d)(1), and”.

8 (6) Subparagraph (B) of section 954(i)(5) is
9 amended by striking “shall be substituted for the
10 prevailing State assumed interest rate” and insert-
11 ing “shall, if higher, be substituted for the interest
12 rate in effect under section 807(d)(2)(B)”.

13 (c) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall apply to taxable years beginning
16 after December 31, 2014.

17 (2) TRANSITION RULE.—For the first taxable
18 year beginning after December 31, 2014, the reserve
19 with respect to any contract (as determined under
20 section 807(d)(2) of the Internal Revenue Code of
21 1986) at the end of the preceding taxable year shall
22 be determined as if the amendments made by this
23 section had applied to such reserve in such preceding
24 taxable year and by using the interest rate applica-
25 ble to such reserves under section 807(d)(2) of the

1 Internal Revenue Code of 1986 for calendar year
2 2015. For subsequent taxable years, such amend-
3 ments shall be applied with respect to such reserve
4 by using the interest rate applicable under such sec-
5 tion for calendar year 2015.

6 (3) TRANSITION RELIEF.—

7 (A) IN GENERAL.—If—

8 (i) the reserve determined under sec-
9 tion 807(d)(2) of the Internal Revenue
10 Code of 1986 with respect to any contract
11 as of the close of the year preceding the
12 first taxable year beginning after Decem-
13 ber 31, 2014, differs from

14 (ii) the reserve which would have been
15 determined with respect to such contract
16 as of the close of such taxable year under
17 such section determined without regard to
18 paragraph (2),

19 then the difference between the amount of the
20 reserve described in clause (i) and the amount
21 of the reserve described in clause (ii) shall be
22 taken into account under the method provided
23 in subparagraph (B).

24 (B) METHOD.—The method provided in
25 this subparagraph is as follows:

1 (i) if the amount determined under
2 subparagraph (A)(i) exceeds the amount
3 determined under subparagraph (A)(ii), $\frac{1}{8}$
4 of such excess shall be taken into account,
5 for each of the 8 succeeding taxable years,
6 as a deduction under section 805(a)(2) of
7 such Code, or

8 (ii) if the amount determined under
9 subparagraph (A)(ii) exceeds the amount
10 determined under subparagraph (A)(i), $\frac{1}{8}$
11 of such excess shall be included in gross in-
12 come, for each of the 8 succeeding taxable
13 years, under section 803(a)(2) of such
14 Code.

15 **SEC. 3505. ADJUSTMENT FOR CHANGE IN COMPUTING RE-**
16 **SERVES.**

17 (a) IN GENERAL.—Paragraph (1) of section 807(f)
18 is amended to read as follows:

19 “(1) TREATMENT AS CHANGE IN METHOD OF
20 ACCOUNTING.—If the basis for determining any item
21 referred to in subsection (e) as of the close of any
22 taxable year differs from the basis for such deter-
23 mination as of the close of the preceding taxable
24 year, then so much of the difference between—

1 “(A) the amount of the item at the close
2 of the taxable year, computed on the new basis,
3 and

4 “(B) the amount of the item at the close
5 of the taxable year, computed on the old basis,
6 as is attributable to contracts issued before the tax-
7 able year shall be taken into account under section
8 481 as adjustments attributable to a change in
9 method of accounting initiated by the taxpayer and
10 made with the consent of the Secretary.”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2014.

14 **SEC. 3506. MODIFICATION OF RULES FOR LIFE INSURANCE**
15 **PRORATION FOR PURPOSES OF DETER-**
16 **MINING THE DIVIDENDS RECEIVED DEDUC-**
17 **TION.**

18 (a) IN GENERAL.—Section 812 is amended to read
19 as follows:

20 **“SEC. 812. DETERMINATION OF COMPANY’S AND POLICY-**
21 **HOLDER’S SHARE ON ACCOUNT BY ACCOUNT**
22 **BASIS.**

23 “(a) DETERMINATION ON ACCOUNT BY ACCOUNT
24 BASIS.—Sections 805(a)(4) and 807 shall be applied on
25 an account by account basis.

1 “(b) COMPANY’S SHARE.—For purposes of section
2 805(a)(4), the term ‘company’s share’ means, with respect
3 to any account for any taxable year, the ratio (expressed
4 as a percentage) of—

5 “(1) the excess of—

6 “(A) the mean assets of such account for
7 such taxable year, over

8 “(B) the mean reserves with respect to
9 such account for such taxable year, divided by

10 “(2) the mean assets of such account for such
11 taxable year.

12 “(c) POLICYHOLDER’S SHARE.—For purposes of sec-
13 tion 807, the term ‘policyholder’s share’ means, with re-
14 spect to any account for any taxable year, the excess of
15 100 percent over the percentage determined under para-
16 graph (2).

17 “(d) MEAN ASSETS AND MEAN RESERVES DE-
18 FINED.—For purposes of this subsection—

19 “(1) MEAN ASSETS.—The term ‘mean assets’
20 means, with respect to any account for any taxable
21 year, 50 percent of the sum of—

22 “(A) the fair market value of the assets of
23 such account determined as of the beginning of
24 such taxable year, and

1 “(B) the fair market value of the assets of
2 such account determined as of the close of such
3 taxable year.

4 “(2) MEAN RESERVES.—The term ‘mean re-
5 serves’ means, with respect to any account for any
6 taxable year, 50 percent of the sum of—

7 “(A) the reserves with respect to such ac-
8 count as determined under section 807 as of
9 the beginning of such taxable year, and

10 “(B) the reserves with respect to such ac-
11 count as determined under section 807 as of
12 the close of such taxable year.

13 “(3) CERTAIN DIVIDENDS NOT TAKEN INTO AC-
14 COUNT.—Dividends described in section 246(c) shall
15 not be taken into account for purposes of deter-
16 mining mean assets or mean reserves.

17 “(4) FEES AND EXPENSES NOT TAKEN INTO
18 ACCOUNT.—Fees and expenses shall not be taken
19 into account for purposes of determining mean as-
20 sets or mean reserves.”.

21 (b) CONFORMING AMENDMENT.—Section 817A(e)(2)
22 is amended by striking “, 807(d)(2)(B), and 812” and in-
23 serting “and 807(d)(2)(B)”

24 (c) CLERICAL AMENDMENT.—The table of sections
25 for subpart D of part I of subchapter L of chapter 1 is

1 amended by striking the item relating to section 812 and
2 inserting the following:

“Sec. 812. Determination of company’s and policyholder’s share on account by
account basis.”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2014.

6 **SEC. 3507. REPEAL OF SPECIAL RULE FOR DISTRIBUTIONS**
7 **TO SHAREHOLDERS FROM PRE-1984 POLICY-**
8 **HOLDERS SURPLUS ACCOUNT.**

9 (a) IN GENERAL.—Subpart D of part I of subchapter
10 L is amended by striking section 815 (and by striking the
11 item relating to such section in the table of sections for
12 such subpart).

13 (b) CONFORMING AMENDMENT.—Section 801 is
14 amended by striking subsection (c).

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2014.

18 (d) PHASED INCLUSION OF REMAINING BALANCE OF
19 POLICYHOLDERS SURPLUS ACCOUNTS.—In the case of
20 any stock life insurance company which has a balance (de-
21 termined as of the close of such company’s last taxable
22 year beginning before January 1, 2015) in an existing pol-
23 icyholders surplus account (as defined in section 815 of
24 the Internal Revenue Code of 1986, as in effect before

1 its repeal), the tax imposed by section 801 of such Code
2 for the first 8 taxable years beginning after December 31,
3 2014, shall be the amount which would be imposed by
4 such section for such year on the sum of—

5 (1) life insurance company taxable income for
6 such year (within the meaning of such section 801
7 but not less than zero), plus

8 (2) $\frac{1}{8}$ of such balance.

9 **SEC. 3508. MODIFICATION OF PRORATION RULES FOR**
10 **PROPERTY AND CASUALTY INSURANCE COM-**
11 **PANIES.**

12 (a) IN GENERAL.—Section 832(b)(5)(B) is amended
13 by striking “15 percent” and inserting “the percentage
14 determined under subparagraph (F)”.

15 (b) DETERMINATION OF PERCENTAGE.—Section
16 832(b)(5) is amended by adding at the end the following
17 new subparagraph:

18 “(F) DETERMINATION OF PERCENTAGE.—

19 “(i) IN GENERAL.—For purposes of
20 subparagraph (B), the percentage deter-
21 mined under this subparagraph is the ratio
22 (expressed as a percentage) of—

23 “(I) the average adjusted bases
24 (within the meaning of section 1016)

1 of tax-exempt assets of the company,
2 to

3 “(II) such average adjusted bases
4 of all assets of the company.

5 “(ii) TAX-EXEMPT ASSETS.—For pur-
6 poses of clause (i)(I), the term ‘tax-exempt
7 assets’ means assets of the type which give
8 rise to income described in subparagraph
9 (B).”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2014.

13 **SEC. 3509. REPEAL OF SPECIAL TREATMENT OF BLUE**
14 **CROSS AND BLUE SHIELD ORGANIZATIONS,**
15 **ETC.**

16 (a) TRANSITIONAL REPEAL OF SPECIAL RULES.—

17 (1) IN GENERAL.—Section 833 is amended by
18 striking subsection (b), by redesignating subsection
19 (c) as subsection (b), and by amending subsection
20 (a) to read as follows:

21 “(a) IN GENERAL.—An organization to which this
22 section applies shall be taxable under this part in the same
23 manner as if it were a stock insurance company.”.

24 (2) TAX STATUS NOT DEPENDENT ON MEDICAL
25 LOSS RATIO.—Subsection (b) of section 833, as re-

1 designated by subsection (a), is amended by striking
2 paragraph (5).

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to taxable years begin-
5 ning after December 31, 2014.

6 (b) REPEAL OF STATUTORY TREATMENT AS A STOCK
7 INSURANCE COMPANY.—

8 (1) IN GENERAL.—Part II of subchapter L of
9 chapter is amended by striking section 833 (and by
10 striking the item relating to such section in the table
11 of sections for such part).

12 (2) EFFECTIVE DATE.—The amendments made
13 by this subsection shall apply to taxable years begin-
14 ning after December 31, 2016.

15 **SEC. 3510. MODIFICATION OF DISCOUNTING RULES FOR**
16 **PROPERTY AND CASUALTY INSURANCE COM-**
17 **PANIES.**

18 (a) MODIFICATION OF RATE OF INTEREST USED TO
19 DISCOUNT UNPAID LOSSES.—Paragraph (2) of section
20 846(c) is amended to read as follows:

21 “(2) DETERMINATION OF ANNUAL RATE.—The
22 annual rate determined by the Secretary under this
23 paragraph for any calendar year shall be a rate de-
24 termined on the basis of the corporate bond yield
25 curve (as defined in section 430(h)(2)(D)(i)).”.

1 (b) MODIFICATION OF COMPUTATIONAL RULES FOR
2 LOSS PAYMENT PATTERNS.—Section 846(d)(3) is amend-
3 ed by striking subparagraphs (B) through (G) and insert-
4 ing the following new subparagraphs:

5 “(B) TREATMENT OF CERTAIN LOSSES.—
6 Losses which would have been treated as paid
7 in the last year of the period applicable under
8 subparagraph (A)(i) or (A)(ii) shall be treated
9 as paid in the following manner:

10 “(i) 3-YEAR LOSS PAYMENT PAT-
11 TERN.—

12 “(I) IN GENERAL.—The period
13 taken into account under subpara-
14 graph (A)(i) shall be extended to the
15 extent required under subclause (II).

16 “(II) COMPUTATION OF EXTEN-
17 SION.—The amount of losses which
18 would have been treated as paid in the
19 3d year after the accident year shall
20 be treated as paid in such 3d year
21 and each subsequent year in an
22 amount equal to the amount of the
23 losses treated as paid in the 2d year
24 after the accident year (or, if lesser,

1 the portion of the unpaid losses not
2 theretofore taken into account).

3 “(ii) 10-YEAR LOSS PAYMENT PAT-
4 TERN.—

5 “(I) IN GENERAL.—The period
6 taken into account under subpara-
7 graph (A)(ii) shall be extended to the
8 extent required under subclause (II).

9 “(II) COMPUTATION OF EXTEN-
10 SION.—The amount of losses which
11 would have been treated as paid in the
12 10th year after the accident year shall
13 be treated as paid in such 10th year
14 and each subsequent year in an
15 amount equal to the amount of the
16 losses treated as paid in the 9th year
17 after the accident year (or, if lesser,
18 the portion of the unpaid losses not
19 theretofore taken into account).

20 “(C) SPECIAL RULE FOR INTERNATIONAL
21 AND REINSURANCE LINES OF BUSINESS.—Ex-
22 cept as otherwise provided by regulations, any
23 determination made under subsection (a) with
24 respect to unpaid losses relating to the inter-
25 national or reinsurance lines of business shall

1 be made using, in lieu of the loss payment pat-
2 tern applicable to the respective lines of busi-
3 ness, a pattern determined by the Secretary
4 under paragraphs (1) and (2) based on the
5 combined losses for all lines of business de-
6 scribed in subparagraph (A)(ii).

7 “(D) SPECIAL RULE FOR 2D OR 9TH YEAR
8 IF NEGATIVE OR ZERO.—

9 “(i) 3-YEAR LOSS PAYMENT PAT-
10 TERN.—If the amount of the losses treated
11 as paid in the 2d year after the accident
12 year is zero or a negative amount, sub-
13 paragraph (B)(i)(II) shall be applied by
14 substituting the average of the losses treat-
15 ed as paid in the 1st and 2d years after
16 the accident year for the losses treated as
17 paid in the 2d year after the accident year.

18 “(ii) 10-YEAR LOSS PAYMENT PAT-
19 TERN.—If the amount of the losses treated
20 as paid in the 9th year after the accident
21 year is zero or a negative amount, sub-
22 paragraph (B)(ii)(II) shall be applied by
23 substituting the average of the losses treat-
24 ed as paid in the 7th, 8th, and 9th years
25 after the accident year for the losses treat-

1 ed as paid in the 9th year after the acci-
2 dent year.”.

3 (c) REPEAL OF HISTORICAL PAYMENT PATTERN
4 ELECTION.—Section 846 is amended by striking sub-
5 section (e) and by redesignating subsections (f) and (g)
6 as subsections (e) and (f), respectively.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2014.

10 (e) TRANSITIONAL RULE.—For the first taxable year
11 beginning after December 31, 2014—

12 (1) the unpaid losses and the expenses unpaid
13 (as defined in paragraphs (5)(B) and (6) of section
14 832(b) of the Internal Revenue Code of 1986) at the
15 end of the preceding taxable year, and

16 (2) the unpaid losses as defined in sections
17 807(c)(2) and 805(a)(1) of such Code at the end of
18 the preceding taxable year,

19 shall be determined as if the amendments made by this
20 section had applied to such unpaid losses and expenses
21 unpaid in the preceding taxable year and by using the in-
22 terest rate and loss payment patterns applicable to acci-
23 dent years ending with calendar year 2015, and any ad-
24 justment shall be taken into account ratably in such first
25 taxable year and the 7 succeeding taxable years. For sub-

1 sequent taxable years, such amendments shall be applied
2 with respect to such unpaid losses and expenses unpaid
3 by using the interest rate and loss payment patterns appli-
4 cable to accident years ending with calendar year 2015.

5 **SEC. 3511. REPEAL OF SPECIAL ESTIMATED TAX PAY-**
6 **MENTS.**

7 (a) IN GENERAL.—Part III of subchapter L of chap-
8 ter 1 is amended by striking section 847 (and by striking
9 the item relating to such section in the table of sections
10 for such part).

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2014.

14 **SEC. 3512. CAPITALIZATION OF CERTAIN POLICY ACQUI-**
15 **TION EXPENSES.**

16 (a) IN GENERAL.—Paragraph (1) of section 848(e)
17 is amended by striking subparagraphs (A), (B), and (C)
18 and inserting the following new subparagraphs:

19 “(A) 5 percent of the net premiums for
20 such taxable year on specified insurance con-
21 tracts which are group contracts, and

22 “(B) 12 percent of the net premiums for
23 such taxable year on specified insurance con-
24 tracts not described in subparagraph (A).”.

1 (b) GROUP CONTRACTS.—So much of paragraph (2)
2 of section 848(e) as precedes subparagraph (A) thereof is
3 amended to read as follows:

4 “(2) GROUP CONTRACT.—The term ‘group con-
5 tract’ means any specified insurance contract—”.

6 (c) CONFORMING AMENDMENTS.—Section 848(e) is
7 amended by striking paragraphs (3) and (6) and by redesh-
8 ignating paragraphs (4) and (5) as paragraphs (3) and
9 (4), respectively.

10 (d) EFFECTIVE DATE.— The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2014.

13 **SEC. 3513. TAX REPORTING FOR LIFE SETTLEMENT TRANS-**
14 **ACTIONS.**

15 (a) IN GENERAL.—Subpart B of part III of sub-
16 chapter A of chapter 61 is amended by adding at the end
17 the following new section:

18 **“SEC. 6050X. RETURNS RELATING TO CERTAIN LIFE INSUR-**
19 **ANCE CONTRACT TRANSACTIONS.**

20 “(a) REQUIREMENT OF REPORTING OF CERTAIN
21 PAYMENTS.—

22 “(1) IN GENERAL.—Every person who acquires
23 a life insurance contract or any interest in a life in-
24 surance contract in a reportable policy sale during
25 any taxable year shall make a return for such tax-

1 able year (at such time and in such manner as the
2 Secretary shall prescribe) setting forth—

3 “(A) the name, address, and TIN of such
4 person,

5 “(B) the name, address, and TIN of each
6 recipient of payment in the reportable policy
7 sale,

8 “(C) the date of such sale,

9 “(D) the name of the issuer of the life in-
10 surance contract sold and the policy number of
11 such contract, and

12 “(E) the amount of each payment.

13 “(2) STATEMENT TO BE FURNISHED TO PER-
14 SONS WITH RESPECT TO WHOM INFORMATION IS RE-
15 QUIRED.—Every person required to make a return
16 under this subsection shall furnish to each person
17 whose name is required to be set forth in such re-
18 turn a written statement showing—

19 “(A) the name, address, and phone num-
20 ber of the information contact of the person re-
21 quired to make such return, and

22 “(B) the information required to be shown
23 on such return with respect to such person, ex-
24 cept that in the case of an issuer of a life insur-
25 ance contract, such statement is not required to

1 include the information specified in paragraph
2 (1)(E).

3 “(b) REQUIREMENT OF REPORTING OF SELLER’S
4 BASIS IN LIFE INSURANCE CONTRACTS.—

5 “(1) IN GENERAL.—Upon receipt of the state-
6 ment required under subsection (a)(2) or upon no-
7 tice of a transfer of a life insurance contract to a
8 foreign person, each issuer of a life insurance con-
9 tract shall make a return (at such time and in such
10 manner as the Secretary shall prescribe) setting
11 forth—

12 “(A) the name, address, and TIN of the
13 seller who transfers any interest in such con-
14 tract in such sale,

15 “(B) the investment in the contract (as de-
16 fined in section 72(e)(6)) with respect to such
17 seller, and

18 “(C) the policy number of such contract.

19 “(2) STATEMENT TO BE FURNISHED TO PER-
20 SONS WITH RESPECT TO WHOM INFORMATION IS RE-
21 QUIRED.—Every person required to make a return
22 under this subsection shall furnish to each person
23 whose name is required to be set forth in such re-
24 turn a written statement showing—

1 “(A) the name, address, and phone num-
2 ber of the information contact of the person re-
3 quired to make such return, and

4 “(B) the information required to be shown
5 on such return with respect to each seller whose
6 name is required to be set forth in such return.

7 “(c) REQUIREMENT OF REPORTING WITH RESPECT
8 TO REPORTABLE DEATH BENEFITS.—

9 “(1) IN GENERAL.—Every person who makes a
10 payment of reportable death benefits during any tax-
11 able year shall make a return for such taxable year
12 (at such time and in such manner as the Secretary
13 shall prescribe) setting forth—

14 “(A) the name, address, and TIN of the
15 person making such payment,

16 “(B) the name, address, and TIN of each
17 recipient of such payment,

18 “(C) the date of each such payment, and

19 “(D) the amount of each such payment.

20 “(2) STATEMENT TO BE FURNISHED TO PER-
21 SONS WITH RESPECT TO WHOM INFORMATION IS RE-
22 QUIRED.—Every person required to make a return
23 under this subsection shall furnish to each person
24 whose name is required to be set forth in such re-
25 turn a written statement showing—

1 “(A) the name, address, and phone num-
2 ber of the information contact of the person re-
3 quired to make such return, and

4 “(B) the information required to be shown
5 on such return with respect to each recipient of
6 payment whose name is required to be set forth
7 in such return.

8 “(d) DEFINITIONS.—For purposes of this section:

9 “(1) PAYMENT.—The term ‘payment’ means
10 the amount of cash and the fair market value of any
11 consideration transferred in a reportable policy sale.

12 “(2) REPORTABLE POLICY SALE.—The term
13 ‘reportable policy sale’ has the meaning given such
14 term in section 101(a)(3)(B).

15 “(3) ISSUER.—The term ‘issuer’ means any life
16 insurance company that bears the risk with respect
17 to a life insurance contract on the date any return
18 or statement is required to be made under this sec-
19 tion.

20 “(4) REPORTABLE DEATH BENEFITS.—The
21 term ‘reportable death benefits’ means amounts paid
22 by reason of the death of the insured under a life
23 insurance contract that has been transferred in a re-
24 portable policy sale.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subpart B of part III of subchapter A of chapter 61
3 is amended by inserting after the item relating to section
4 6050W the following new item:

“Sec. 6050X. Returns relating to certain life insurance contract transactions.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Subsection (d) of section 6724 is amend-
7 ed—

8 (A) by striking “or” at the end of clause
9 (xxiv) of paragraph (1)(B), by striking “and”
10 at the end of clause (xxv) of such paragraph
11 and inserting “or”, and by inserting after such
12 clause (xxv) the following new clause:

13 “(xxvi) section 6050X (relating to re-
14 turns relating to certain life insurance con-
15 tract transactions), and”, and

16 (B) by striking “or” at the end of subpara-
17 graph (GG) of paragraph (2), by striking the
18 period at the end of subparagraph (HH) of
19 such paragraph and inserting “, or”, and by in-
20 serting after such subparagraph (HH) the fol-
21 lowing new subparagraph:

22 “(II) subsection (a)(2), (b)(2), or (c)(2) of
23 section 6050X (relating to returns relating to
24 certain life insurance contract transactions).”.

25 (2) Section 6047 is amended—

1 (A) by redesignating subsection (g) as sub-
2 section (h),

3 (B) by inserting after subsection (f) the
4 following new subsection:

5 “(g) INFORMATION RELATING TO LIFE INSURANCE
6 CONTRACT TRANSACTIONS.—This section shall not apply
7 to any information which is required to be reported under
8 section 6050X.”, and

9 (C) by adding at the end of subsection (h),
10 as so redesignated, the following new para-
11 graph:

12 “(4) For provisions requiring reporting of infor-
13 mation relating to certain life insurance contract
14 transactions, see section 6050X.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to—

17 (1) reportable policy sales (as defined in section
18 6050X(d)(2) of the Internal Revenue Code of 1986
19 (as added by subsection (a)) after December 31,
20 2014, and

21 (2) reportable death benefits (as defined in sec-
22 tion 6050X(d)(4) of such Code (as added by sub-
23 section (a)) paid after December 31, 2014.

1 **SEC. 3514. CLARIFICATION OF TAX BASIS OF LIFE INSUR-**
2 **ANCE CONTRACTS.**

3 (a) CLARIFICATION WITH RESPECT TO ADJUST-
4 MENTS.—Paragraph (1) of section 1016(a) is amended by
5 striking subparagraph (A) and all that follows and insert-
6 ing the following:

7 “(A) for—

8 “(i) taxes or other carrying charges
9 described in section 266; or

10 “(ii) expenditures described in section
11 173 (relating to circulation expenditures),
12 for which deductions have been taken by the
13 taxpayer in determining taxable income for the
14 taxable year or prior taxable years; or

15 “(B) for mortality, expense, or other rea-
16 sonable charges incurred under an annuity or
17 life insurance contract;”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to transactions entered into after
20 August 25, 2009.

21 **SEC. 3515. EXCEPTION TO TRANSFER FOR VALUABLE CON-**
22 **SIDERATION RULES.**

23 (a) IN GENERAL.—Subsection (a) of section 101 is
24 amended by inserting after paragraph (2) the following
25 new paragraph:

1 “(3) EXCEPTION TO VALUABLE CONSIDERATION
2 RULES FOR COMMERCIAL TRANSFERS.—

3 “(A) IN GENERAL.—The second sentence
4 of paragraph (2) shall not apply in the case of
5 a transfer of a life insurance contract, or any
6 interest therein, which is a reportable policy
7 sale.

8 “(B) REPORTABLE POLICY SALE.—For
9 purposes of this paragraph, the term ‘reportable
10 policy sale’ means the acquisition of an interest
11 in a life insurance contract, directly or indi-
12 rectly, if the acquirer has no substantial family,
13 business, or financial relationship with the in-
14 sured apart from the acquirer’s interest in such
15 life insurance contract. For purposes of the pre-
16 ceding sentence, the term ‘indirectly’ applies to
17 the acquisition of an interest in a partnership,
18 trust, or other entity that holds an interest in
19 the life insurance contract.”.

20 (b) CONFORMING AMENDMENT.—Paragraph (1) of
21 section 101(a) is amended by striking “paragraph (2)”
22 and inserting “paragraphs (2) and (3)”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to transfers after December 31,
25 2014.

1 **Subtitle G—Pass-Thru and Certain**
2 **Other Entities**

3 **PART 1—S CORPORATIONS**

4 **SEC. 3601. REDUCED RECOGNITION PERIOD FOR BUILT-IN**
5 **GAINS MADE PERMANENT.**

6 (a) IN GENERAL.—Paragraph (7) of section 1374(d)
7 (relating to definitions and special rules) is amended to
8 read as follows:

9 “(7) RECOGNITION PERIOD.—

10 “(A) IN GENERAL.—The term ‘recognition
11 period’ means the 5-year period beginning with
12 the 1st day of the 1st taxable year for which
13 the corporation was an S corporation. For pur-
14 poses of applying this section to any amount in-
15 cludible in income by reason of distributions to
16 shareholders pursuant to section 593(e), the
17 preceding sentence shall be applied without re-
18 gard to the phrase ‘5-year’.

19 “(B) INSTALLMENT SALES.—If an S cor-
20 poration sells an asset and reports the income
21 from the sale using the installment method
22 under section 453, the treatment of all pay-
23 ments received shall be governed by the provi-
24 sions of this paragraph applicable to the taxable
25 year in which such sale was made.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2013.

4 **SEC. 3602. MODIFICATIONS TO S CORPORATION PASSIVE**
5 **INVESTMENT INCOME RULES.**

6 (a) INCREASED PERCENTAGE LIMIT.—Paragraph (2)
7 of section 1375(a) is amended by striking “25 percent”
8 and inserting “60 percent”.

9 (b) REPEAL OF EXCESSIVE PASSIVE INCOME AS A
10 TERMINATION EVENT.—Section 1362(d) is amended by
11 striking paragraph (3).

12 (c) CONFORMING AMENDMENTS.—

13 (1) Subsection (b) of section 1375 is amended
14 by striking paragraphs (3) and (4) and inserting the
15 following new paragraph:

16 “(3) PASSIVE INVESTMENT INCOME DE-
17 FINED.—

18 “(A) IN GENERAL.—Except as otherwise
19 provided in this paragraph, the term ‘passive
20 investment income’ means gross receipts de-
21 rived from royalties, rents, dividends, interest,
22 and annuities.

23 “(B) EXCEPTION FOR INTEREST ON
24 NOTES FROM SALES OF INVENTORY.—The term
25 ‘passive investment income’ shall not include in-

1 terest on any obligation acquired in the ordi-
2 nary course of the corporation's trade or busi-
3 ness from its sale of property described in sec-
4 tion 1221(a)(1).

5 “(C) TREATMENT OF CERTAIN LENDING
6 OR FINANCE COMPANIES.—If the S corporation
7 meets the requirements of section 542(c)(6) for
8 the taxable year, the term ‘passive investment
9 income’ shall not include gross receipts for the
10 taxable year which are derived directly from the
11 active and regular conduct of a lending or fi-
12 nance business (as defined in section
13 542(d)(1)).

14 “(D) TREATMENT OF CERTAIN DIVI-
15 DENDS.—If an S corporation holds stock in a
16 C corporation meeting the requirements of sec-
17 tion 1504(a)(2), the term ‘passive investment
18 income’ shall not include dividends from such C
19 corporation to the extent such dividends are at-
20 tributable to the earnings and profits of such C
21 corporation derived from the active conduct of
22 a trade or business.

23 “(E) EXCEPTION FOR BANKS, ETC.—In
24 the case of a bank (as defined in section 581)
25 or a depository institution holding company (as

1 defined in section 3(w)(1) of the Federal De-
2 posit Insurance Act (12 U.S.C. 1813(w)(1)),
3 the term ‘passive investment income’ shall not
4 include—

5 “(i) interest income earned by such
6 bank or company, or

7 “(ii) dividends on assets required to
8 be held by such bank or company, includ-
9 ing stock in the Federal Reserve Bank, the
10 Federal Home Loan Bank, or the Federal
11 Agricultural Mortgage Bank or participa-
12 tion certificates issued by a Federal Inter-
13 mediate Credit Bank.

14 “(F) GROSS RECEIPTS FROM THE SALES
15 OF CERTAIN ASSETS.—For purposes of this
16 paragraph—

17 “(i) CAPITAL ASSETS OTHER THAN
18 STOCK AND SECURITIES.—In the case of
19 dispositions of capital assets (other than
20 stock and securities), gross receipts from
21 such dispositions shall be taken into ac-
22 count only to the extent of capital gain net
23 income therefrom.

24 “(ii) STOCK AND SECURITIES.—In the
25 case of sales or exchanges of stock or secu-

1 rities, gross receipts shall be taken into ac-
2 count only to the extent of the gain there-
3 from.

4 “(G) COORDINATION WITH SECTION
5 1374.—The amount of passive investment in-
6 come shall be determined by not taking into ac-
7 count any recognized built-in gain or loss of the
8 S corporation for any taxable year in the rec-
9 ognition period. Terms used in the preceding
10 sentence shall have the same respective mean-
11 ings as when used in section 1374.”.

12 (2)(A) Subparagraph (J) of section 26(b)(2) is
13 amended by striking “25 percent” and inserting “60
14 percent”.

15 (B) Clause (i) of section 1375(b)(1)(A) is
16 amended by striking “25 percent” and inserting “60
17 percent”.

18 (C) The heading for section 1375 is amended
19 by striking “**25 PERCENT**” and inserting “**60 PER-**
20 **CENT**”.

21 (D) The item relating to section 1375 in the
22 table of sections for part III of subchapter S of
23 chapter 1 is amended by striking “25 percent” and
24 inserting “60 percent”.

1 (3) Subparagraph (B) of section 1362(f)(1) is
2 amended by striking “paragraph (2) or (3) of sub-
3 section (d)” and inserting “subsection (d)(2)”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2014.

7 **SEC. 3603. EXPANSION OF QUALIFYING BENEFICIARIES OF**
8 **AN ELECTING SMALL BUSINESS TRUST.**

9 (a) NO LOOK-THROUGH FOR ELIGIBILITY PUR-
10 POSES.—Subparagraph (C) of section 1361(b)(1) is
11 amended by inserting “(determined without regard to sub-
12 section (c)(2)(B)(v))” after “shareholder”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall take effect on January 1, 2015.

15 **SEC. 3604. CHARITABLE CONTRIBUTION DEDUCTION FOR**
16 **ELECTING SMALL BUSINESS TRUSTS.**

17 (a) IN GENERAL.—Paragraph (2) of section 641(c),
18 as amended by the preceding provisions of this Act, is
19 amended by inserting after subparagraph (C) the fol-
20 lowing new subparagraph:

21 “(D)(i) Section 642(e) shall not apply.

22 “(ii) For purposes of section 170(b)(1)(E),
23 adjusted gross income shall be computed in the
24 same manner as in the case of an individual,
25 except that the deductions for costs which are

1 paid or incurred in connection with the admin-
2 istration of the trust and which would not have
3 been incurred if the property were not held in
4 such trust shall be treated as allowable in arriv-
5 ing at adjusted gross income.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to taxable years beginning after
8 December 31, 2014.

9 **SEC. 3605. PERMANENT RULE REGARDING BASIS ADJUST-**
10 **MENT TO STOCK OF S CORPORATIONS MAK-**
11 **ING CHARITABLE CONTRIBUTIONS OF PROP-**
12 **ERTY.**

13 (a) IN GENERAL.—Section 1367(a)(2) (relating to
14 decreases in basis) is amended by striking the last sen-
15 tence.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to contributions made in taxable
18 years beginning after December 31, 2013.

19 **SEC. 3606. EXTENSION OF TIME FOR MAKING S CORPORA-**
20 **TION ELECTIONS.**

21 (a) IN GENERAL.—Subsection (b) of section 1362 is
22 amended to read as follows:

23 “(b) WHEN MADE.—

24 “(1) IN GENERAL.—An election under sub-
25 section (a) may be made by a small business cor-

1 poration for any taxable year not later than the due
2 date for filing the return of the S corporation for
3 such taxable year (including extensions).

4 “(2) CERTAIN ELECTIONS TREATED AS MADE
5 FOR NEXT TAXABLE YEAR.—If—

6 “(A) an election under subsection (a) is
7 made for any taxable year within the period de-
8 scribed in paragraph (1), but

9 “(B) either—

10 “(i) on 1 or more days in such taxable
11 year and before the day on which the elec-
12 tion was made the corporation did not
13 meet the requirements of subsection (b) of
14 section 1361, or

15 “(ii) 1 or more of the persons who
16 held stock in the corporation during such
17 taxable year and before the election was
18 made did not consent to the election,

19 then such election shall be treated as made for
20 the following taxable year.

21 “(3) AUTHORITY TO TREAT LATE ELECTIONS,
22 ETC., AS TIMELY.—If—

23 “(A) an election under subsection (a) is
24 made for any taxable year after the date pre-
25 scribed by this subsection for making such elec-

1 tion for such taxable year or no such election is
2 made for any taxable year, and

3 “(B) the Secretary determines that there
4 was reasonable cause for the failure to timely
5 make such election,

6 the Secretary may treat such an election as timely
7 made for such taxable year.

8 “(4) ELECTION ON TIMELY FILED RETURNS.—
9 Except as otherwise provided by the Secretary, an
10 election under subsection (a) for any taxable year
11 may be made on a timely filed return of the S cor-
12 poration for such taxable year.

13 “(5) SECRETARIAL AUTHORITY.—The Secretary
14 may prescribe such regulations, rules, or other guid-
15 ance as may be necessary or appropriate for pur-
16 poses of applying this subsection.”.

17 (b) COORDINATION WITH CERTAIN OTHER PROVI-
18 SIONS.—

19 (1) QUALIFIED SUBCHAPTER S SUBSIDI-
20 ARIES.—Section 1361(b)(3)(B) is amended by add-
21 ing at the end the following flush sentence:

22 “Rules similar to the rules of section 1362(b)
23 shall apply with respect to any election under
24 clause (ii).”.

1 (2) QUALIFIED SUBCHAPTER S TRUSTS.—Sec-
2 tion 1361(d)(2) is amended by striking subpara-
3 graph (D).

4 (c) REVOCATIONS.—Paragraph (1) of section
5 1362(d) is amended—

6 (1) by striking “subparagraph (D)” in subpara-
7 graph (C) and inserting “subparagraphs (D) and
8 (E)”, and

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(E) AUTHORITY TO TREAT LATE REVOCATIONS AS
12 TIMELY.—If—

13 “(i) a revocation under subparagraph
14 (A) is made for any taxable year after the
15 date prescribed by this paragraph for mak-
16 ing such revocation for such taxable year
17 or no such revocation is made for any tax-
18 able year, and

19 “(ii) the Secretary determines that
20 there was reasonable cause for the failure
21 to timely make such revocation,
22 the Secretary may treat such a revocation as
23 timely made for such taxable year.”.

24 (d) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall apply to elections for taxable years
4 beginning after December 31, 2014.

5 (2) REVOCATIONS.—The amendments made by
6 subsection (c) shall apply to revocations after De-
7 cember 31, 2014.

8 **SEC. 3607. RELOCATION OF C CORPORATION DEFINITION.**

9 (a) IN GENERAL.—Subsection (a) of section 1361 is
10 amended—

11 (1) by striking paragraph (2), and

12 (2) by striking “S CORPORATION DEFINED.—”
13 and all that follows through “For purposes of this
14 title, the term ‘S corporation’ means” and inserting
15 the following: “IN GENERAL.—For purposes of this
16 title, the term ‘S corporation’ means”.

17 (b) CONFORMING AMENDMENT.—Section 7701(a)(3)
18 is amended—

19 (1) by striking “CORPORATION.—The term
20 ‘corporation’ means” and inserting the following:

21 “CORPORATIONS.—

22 “(1) IN GENERAL.—The term ‘corporation’
23 means”, and

24 (2) by adding at the end the following new
25 paragraph:

1 payments to which section 707(c) applies)”
2 in clauses (iii) and (iv), and

3 (ii) by striking “(after such gross in-
4 come has been so reduced)” in clause (iv).

5 (D) Section 2701(c)(1)(B) is amended by
6 inserting “or” at the end of clause (i), by strik-
7 ing “, or” at the end of clause (ii) and inserting
8 a period, and by striking clause (iii).

9 (E) Section 7519(d) is amended by strik-
10 ing paragraph (5).

11 (3) EFFECTIVE DATES.—

12 (A) IN GENERAL.—Except as otherwise
13 provided in this paragraph, the amendments
14 made by this subsection shall apply to partner-
15 ship taxable years beginning after December
16 31, 2014.

17 (B) TRANSFERS.—The amendment made
18 by paragraph (2)(E) shall apply to transfers
19 after December 31, 2014.

20 (b) PAYMENTS MADE IN LIQUIDATION OF RETIRING
21 OR DECEASED PARTNER.—

22 (1) IN GENERAL.—Subpart B of part II of sub-
23 chapter K of chapter 1 is amended by striking sec-
24 tion 736 (and by striking the item relating to such
25 section in the table of sections for such subpart).

1 (2) RETIRED PARTNERS AND SUCCESSORS IN
2 INTEREST OF DECEASED PARTNERS TREATED AS
3 PARTNERS UNTIL LIQUIDATION.—Section 761(d) is
4 amended by adding at the end the following: “For
5 purposes of this subchapter, any retired partner or
6 a deceased partner’s successor in interest shall be
7 treated as a partner until the complete liquidation of
8 such interest.”

9 (3) CONFORMING AMENDMENT.—

10 (A) Section 357(c)(3)(A) is amended by
11 striking “payment of which either—” and all
12 that follows through “then, for purposes of”
13 and inserting “payment of which would give
14 rise to a deduction, then, for purposes of”.

15 (B) Section 731(d) is amended—

16 (i) by striking “section 736 (relating
17 to payments to a retiring partner or a de-
18 ceased partner’s successor in interest),”,
19 and

20 (ii) by striking “items), and” and in-
21 serting “items) and”.

22 (C) Section 751(b)(2) is amended—

23 (i) by striking subparagraph (B), and

24 (ii) by striking “shall not apply to—
25 ” and all that follows through “a distribu-

1 tion of property” and inserting the fol-
2 lowing: “shall not apply to a distribution of
3 property”.

4 (D)(i) Section 753 is amended by striking
5 “The amount includible” and all that follows
6 and inserting “For treatment of income in re-
7 spect of a decedent, see section 691.”

8 (ii) Section 691 is amended by striking
9 subsection (e).

10 (4) EFFECTIVE DATE.—The amendments made
11 by this subsection shall apply to partners retiring or
12 dying after December 31, 2014.

13 **SEC. 3612. MANDATORY ADJUSTMENTS TO BASIS OF PART-**
14 **NERSHIP PROPERTY IN CASE OF TRANSFER**
15 **OF PARTNERSHIP INTERESTS.**

16 (a) IN GENERAL.—Section 743 is amended—

17 (1) by striking subsections (a), (c), (d), (e), and
18 (f) and by redesignating subsection (b) as subsection
19 (a),

20 (2) in subsection (a) (as so redesignated) by
21 striking “with respect to which the election provided
22 in section 754 is in effect or which has a substantial
23 built-in loss immediately after such transfer”, and

24 (3) by adding at the end the following new sub-
25 section:

1 “(b) ALLOCATION OF BASIS.—

2 “(1) GENERAL RULE.—Any increase or de-
3 crease in the adjusted basis of partnership property
4 under subsection (a) shall, except as provided in
5 paragraph (2), be allocated—

6 “(A) in a manner which has the effect of
7 reducing the difference between the fair market
8 value and the adjusted basis of partnership
9 properties, or

10 “(B) in any other manner permitted by
11 regulations prescribed by the Secretary.

12 “(2) SPECIAL RULE.—In applying the allocation
13 rules provided in paragraph (1), increases or de-
14 creases in the adjusted basis of partnership property
15 arising from a transfer of an interest attributable to
16 property consisting of—

17 “(A) capital assets and property described
18 in section 1231(b), or

19 “(B) any other property of the partner-
20 ship,

21 shall be allocated to partnership property of a like
22 character except that the basis of any such partner-
23 ship property shall not be reduced below zero.”.

24 (b) CONFORMING AMENDMENTS.—

25 (1) Section 704(e)(1) is amended—

- 1 (A) by adding “and” at the end of sub-
2 paragraph (A),
3 (B) by striking “, and” at the end of sub-
4 paragraph (B) and inserting a period, and
5 (C) by striking all that follows subpara-
6 graph (B).
- 7 (2) Section 732 is amended by striking sub-
8 section (d) and by redesignating subsections (e) and
9 (f) as subsections (d) and (e), respectively.
- 10 (3) Section 761(e)(2) is amended by striking
11 “optional”.
- 12 (4) Section 6031 is amended by striking sub-
13 section (f).
- 14 (5) The heading for section 743 is amended to
15 read as follows: “**ADJUSTMENT TO BASIS OF**
16 **PARTNERSHIP PROPERTY.**”
- 17 (6) The heading for subsection (a) (as redesign-
18 ated by the preceding provisions of this Act) of sec-
19 tion 743 is amended by striking “ADJUSTMENT TO
20 BASIS OF PARTNERSHIP PROPERTY” and inserting
21 “IN GENERAL”.
- 22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to transfers after December 31,
24 2014.

1 **SEC. 3613. MANDATORY ADJUSTMENTS TO BASIS OF UNDIS-**
2 **TRIBUTED PARTNERSHIP PROPERTY.**

3 (a) IN GENERAL.—Section 734 is amended to read
4 as follows:

5 **“SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED**
6 **PARTNERSHIP PROPERTY.**

7 “(a) IN GENERAL.—In the case of any distribution
8 to a partner, the partnership shall adjust the basis of part-
9 nership property such that each remaining partner’s net
10 liquidation amount immediately after such distribution is
11 equal to such partner’s net liquidation amount imme-
12 diately before such distribution.

13 “(b) DISTRIBUTIONS OTHER THAN IN LIQUIDATION
14 OF A PARTNER’S INTEREST.—In the case of any distribu-
15 tion to a partner other than in liquidation of such part-
16 ner’s interest, proper adjustment shall be made under sub-
17 section (a) with respect to such partner to take into ac-
18 count—

19 “(1) the amount of any gain recognized by such
20 partner with respect to such distribution under sec-
21 tion 731(a), and

22 “(2) the amount of any gain or loss which
23 would be recognized by such partner if such partner
24 sold the property distributed at fair market value
25 immediately after such distribution.

1 “(c) NET LIQUIDATION AMOUNT.—For purposes of
2 this section, the term ‘net liquidation amount’ means, with
3 respect to any partner, the net amount of gain or loss (if
4 any) which would be taken into account by the partner
5 under section 702 if the partnership sold all of its assets
6 at fair market value (and no other amounts were taken
7 into account under such section).

8 “(d) ALLOCATION OF BASIS.—

9 “(1) DECREASES IN BASIS.—Any decrease in
10 the adjusted basis of partnership property which is
11 required under this section—

12 “(A) shall be made in accordance with
13 paragraph (3) of section 732(c), and

14 “(B) shall be made first with respect to
15 property other than unrealized receivables (as
16 defined in section 751(c)) and inventory (as de-
17 fined in section 751(d)) to the extent thereof.

18 If any such decrease is prevented by the absence of
19 sufficient adjusted basis of partnership property,
20 each partner shall recognize gain in the amount of
21 such partner’s distributive share of such prevented
22 decrease. Such gain shall be treated as gain from
23 the sale of the partner’s partnership interest.

1 “(2) INCREASES IN BASIS.—Any increase in the
2 adjusted basis of partnership property which is re-
3 quired under this section—

4 “(A) shall be made in accordance with
5 paragraph (2) of section 732(c), and

6 “(B) shall be made only with respect to
7 property other than unrealized receivables (as
8 defined in section 751(c)) and inventory (as de-
9 fined in section 751(d)).

10 If any such increase is prevented by the absence of
11 property described in subparagraph (B), each part-
12 ners shall recognize a loss in the amount of such
13 partner’s distributive share of such prevented in-
14 crease. Such loss shall be treated as a loss from the
15 sale of the partner’s partnership interest.

16 “(e) NO ALLOCATION OF BASIS DECREASE TO
17 STOCK OF CORPORATE PARTNER.—In making an alloca-
18 tion under subsection (d) of any decrease in the adjusted
19 basis of partnership property required under subsection
20 (a)—

21 “(1) no allocation may be made to stock in a
22 corporation (or any person related (within the mean-
23 ing of section 267(b) or 707(b)(1)) to such corpora-
24 tion) which is a partner in the partnership, and

1 “(2) any amount not allocable to stock by rea-
2 son of paragraph (1) shall be allocated under sub-
3 section (d) to other partnership property.

4 Gain shall be recognized by the partnership to the extent
5 that the amount required to be allocated to other partner-
6 ship property under subsection (e)(2) exceeds the aggre-
7 gate adjusted basis of such other property immediately be-
8 fore the allocation required by subsection (a).”.

9 (b) CONFORMING AMENDMENTS.—

10 (1)(A) Subpart D of part II of subchapter K of
11 chapter 1 is amended by striking sections 754 and
12 755 (and by striking items relating to such sections
13 in the table of sections of such subpart).

14 (B) Clause (ii) of section 706(d)(2)(D) is
15 amended by striking “section 755” and inserting
16 “section 743(b)”.

17 (2) Subsection (d) of section 1060 is amend-
18 ed—

19 (A) by striking “section 755” in paragraph
20 (1) and inserting “sections 734 and 743”, and

21 (B) by striking “section 755” in paragraph
22 (2) and inserting “section 734 or 743”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to distributions after December 31,
25 2014.

1 **SEC. 3614. CORRESPONDING ADJUSTMENTS TO BASIS OF**
2 **PROPERTIES HELD BY PARTNERSHIP WHERE**
3 **PARTNERSHIP BASIS ADJUSTED.**

4 (a) IN GENERAL.—Subpart B of part II of sub-
5 chapter K of chapter 1, as amended by the preceding pro-
6 visions of this Act, is amended by inserting after section
7 735 the following new section:

8 **“SEC. 736. CORRESPONDING ADJUSTMENT TO BASIS OF**
9 **PROPERTIES HELD BY LOWER-TIER PART-**
10 **nership IN CASE OF UPPER-TIER PARTNER-**
11 **SHIP BASIS ADJUSTMENTS.**

12 “(a) DISTRIBUTIONS BY UPPER-TIER PARTNER-
13 SHIP.—In the case of any distribution of property to a
14 partner by an upper-tier partnership, if such distribution
15 results in an adjustment in the upper-tier partnership’s
16 adjusted basis in an interest in a lower-tier partnership
17 under section 734, then such lower-tier partnership shall
18 make a corresponding adjustment to the adjusted basis
19 of its partnership property.

20 “(b) DISTRIBUTIONS OF INTERESTS IN LOWER-TIER
21 PARTNERSHIP.—In the case of any distribution of an in-
22 terest in a lower-tier partnership by an upper-tier partner-
23 ship—

24 “(1) if the adjusted basis of such interest in the
25 hands of the upper-tier partnership (determined im-
26 mediately before such distribution) exceeds the ad-

1 justed basis of such interest in the hands of the dis-
2 tributee partner (determined immediately after such
3 distribution), then such lower-tier partnership shall
4 decrease the adjusted basis of its partnership prop-
5 erty by the amount of such excess, or

6 “(2) if the adjusted basis of such interest in the
7 hands of the distributee partner (determined imme-
8 diately after such distribution) exceeds the adjusted
9 basis of such interest in the hands of the upper-tier
10 partnership (determined immediately before such
11 distribution), then such lower-tier partnership shall
12 increase the adjusted basis of its partnership prop-
13 erty by the amount of such excess.

14 “(c) DISPOSITIONS OF INTERESTS IN UPPER-TIER
15 PARTNERSHIP.—In the case of a disposition of an interest
16 in an upper-tier partnership which holds an interest in a
17 lower-tier partnership, if there is an adjustment to the ad-
18 justed basis of the lower-tier partnership under section
19 743, then such lower-tier partnership shall make a cor-
20 responding adjustment to the adjusted basis of its part-
21 nership property.

22 “(d) MULTI-TIERED PARTNERSHIPS.—In the case of
23 any adjustment under subsection (a), (b), or (c) in the
24 adjusted basis of an interest in another partnership, such

1 other partnership shall make a corresponding adjustment
2 in the adjusted basis of its partnership property.

3 “(e) ALLOCATION OF BASIS; RECOGNITION OF
4 GAIN.—In the case of any adjustment in the adjusted
5 basis of partnership property—

6 “(1) under subsection (a), (b), (c), or (d), such
7 adjustment shall be made only with respect to the
8 upper-tier partnership’s proportionate share (as de-
9 termined under section 743(a)) of the adjusted basis
10 of the lower-tier partnership’s property,

11 “(2) under subsection (a) or (b) (or so much of
12 subsection (d) as relates to either such subsection),
13 rules similar to the rules of section 734(d) shall
14 apply, and

15 “(3) under subsection (c) (or so much of sub-
16 section (d) as relates to such subsection), rules simi-
17 lar to the rules of section 743(b) shall apply.

18 “(f) REPORTING.—In the case of any adjustment in
19 the adjusted basis of partnership property by a lower-tier
20 partnership under this section by reason of a distribution
21 by, or a disposition of an interest in, an upper-tier part-
22 nership, such upper-tier partnership shall furnish (in such
23 manner as the Secretary shall prescribe) to such lower-
24 tier partnership such information as is necessary to enable
25 such lower-tier partnership to make such adjustment.

1 “(g) UPPER- AND LOWER-TIER PARTNERSHIPS.—

2 For purposes of this section—

3 “(1) UPPER-TIER PARTNERSHIP.—The term

4 ‘upper-tier partnership’ means a partnership owning
5 an interest in another partnership.

6 “(2) LOWER-TIER PARTNERSHIP.—The term

7 ‘lower-tier partnership’ means the partnership re-
8 ferred to in paragraph (1) an interest in which is
9 owned by the upper-tier partnership.”.

10 (b) EFFECTIVE DATES.—The amendments made by
11 this section shall apply to distributions and transfers after
12 December 31, 2014.

13 **SEC. 3615. CHARITABLE CONTRIBUTIONS AND FOREIGN**
14 **TAXES TAKEN INTO ACCOUNT IN DETER-**
15 **MINING LIMITATION ON ALLOWANCE OF**
16 **PARTNER’S SHARE OF LOSS.**

17 (a) IN GENERAL.—Subsection (d) of section 704 is
18 amended—

19 (1) by striking “A partner’s distributive share”
20 and inserting the following:

21 “(1) IN GENERAL.—A partner’s distributive
22 share”,

23 (2) by striking “Any excess of such loss” and
24 inserting the following:

1 “(2) CARRYOVER.—Any excess of such loss”,
2 and

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

5 “(3) SPECIAL RULES.—In determining the
6 amount of any loss under paragraph (1), there shall
7 be taken into account as a deduction the partner’s
8 distributive share of—

9 “(A) the adjusted basis of charitable con-
10 tributions described in paragraph (4) of section
11 702(a), and

12 “(B) the amount of taxes described in
13 paragraph (6) of such section.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to partnership taxable years begin-
16 ning after December 31, 2014.

17 **SEC. 3616. REVISIONS RELATED TO UNREALIZED RECEIV-**
18 **ABLES AND INVENTORY ITEMS.**

19 (a) REPEAL OF REQUIREMENT THAT INVENTORY BE
20 SUBSTANTIALLY APPRECIATED IN CERTAIN PARTNER-
21 SHIP DISTRIBUTIONS TREATED AS SALE OR EX-
22 CHANGE.—

23 (1) IN GENERAL.—Clause (ii) of section
24 751(b)(1)(A) is amended by striking “which have
25 appreciated substantially in value”.

1 (2) CONFORMING AMENDMENT.—Section
2 751(b) is amended by striking paragraph (3).

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to distributions after
5 December 31, 2014.

6 (b) REVISION OF REGULATIONS RELATING TO
7 TREATMENT OF UNREALIZED RECEIVABLES AND INVEN-
8 TORY ITEMS.—The Secretary of the Treasury shall revise
9 regulations issued under section 751(b) of the Internal
10 Revenue Code of 1986 to take into account the partner’s
11 share of income and gain rather than the partner’s share
12 of partnership assets.

13 (c) SIMPLIFICATION OF DEFINITION OF UNREALIZED
14 RECEIVABLES.—

15 (1) IN GENERAL.—Section 751(c) is amended
16 by striking all that follows paragraph (2) and insert-
17 ing the following:

18 “For purposes of this section and sections 731, 732, 734,
19 and 741, such term also includes any property other than
20 inventory items, but only to the extent of the amount
21 which would be treated as ordinary income if (at the time
22 of the transaction described in the applicable section) such
23 property had been sold by the partnership for its fair mar-
24 ket value.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by this subsection shall apply to partnership taxable
3 years beginning after December 31, 2014.

4 **SEC. 3617. REPEAL OF TIME LIMITATION ON TAXING**
5 **PRECONTRIBUTION GAIN.**

6 (a) IN GENERAL.—Subparagraph (B) of section
7 704(c)(1) is amended by striking “within 7 years of being
8 contributed”.

9 (b) CONFORMING AMENDMENT.—Paragraph (1) of
10 section 737(b) is amended by striking “within 7 years of
11 the distribution”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to property contributed to a part-
14 nership after December 31, 2014.

15 **SEC. 3618. PARTNERSHIP INTERESTS CREATED BY GIFT.**

16 (a) IN GENERAL.—Section 761(b) is amended by
17 adding at the end the following: “In the case of a capital
18 interest in a partnership in which capital is a material in-
19 come-producing factor, whether a person is a partner with
20 respect to such interest shall be determined without regard
21 to whether such interest was derived by gift from any
22 other person.”.

23 (b) CONFORMING AMENDMENTS.—Section 704(e) is
24 amended—

1 (1) by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively,

2 (2) by striking “this section” in paragraph (2) (as so redesignated) and inserting “this subsection”, and

3 (3) by striking “FAMILY PARTNERSHIPS” in the heading and inserting “PARTNERSHIP INTERESTS CREATED BY GIFT”.

4 (c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 2014.

5 **SEC. 3619. REPEAL OF TECHNICAL TERMINATION.**

6 (a) IN GENERAL.—Paragraph (1) of section 708(b) is amended—

7 (1) by striking “, or” and all that follows and inserting a period, and

8 (2) by striking “only if—” and all that follows through “no part of any business” and inserting the following: “only if no part of any business”.

9 (b) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 2014.

1 **SEC. 3620. PUBLICLY TRADED PARTNERSHIP EXCEPTION**
2 **RESTRICTED TO MINING AND NATURAL RE-**
3 **SOURCES PARTNERSHIPS.**

4 (a) IN GENERAL.—Subsection (d) of section 7704 is
5 amended to read as follows:

6 “(d) QUALIFYING INCOME.—For purposes of this
7 section, the term ‘qualifying income’ means—

8 “(1) income and gains derived from the explo-
9 ration, development, mining or production, proc-
10 essing, refining, transportation (including pipelines
11 transporting gas, oil, or products thereof), or the
12 marketing of any mineral or natural resource (in-
13 cluding geothermal energy and excluding fertilizer
14 and timber) or industrial source carbon dioxide, and

15 “(2) any gain from the sale or disposition of a
16 capital asset (or property described in section
17 1231(b)) held for the production of income described
18 in paragraph (1).

19 For purposes of this subsection, the term ‘mineral or nat-
20 ural resource’ means any product of a character with re-
21 spect to which a deduction for depletion is allowable under
22 section 611 (other than minerals from sea water or the
23 air (or similar inexhaustible sources), soil, sod, dirt, turf,
24 water, or mosses).”.

25 (b) CONFORMING AMENDMENTS.—Section
26 988(c)(1)(E) is amended—

1 (1) by striking “income or gains described in
2 subparagraph (A), (B), or (G) of section
3 7704(d)(1)” in clause (iii)(III) and inserting “quali-
4 fying income or gains”,

5 (2) by striking subclause (III) of clause (vi) and
6 by redesignating subclause (IV) as subclause (III),

7 (3) by redesignating clause (vi) (as amended by
8 this subparagraph) as clause (viii), and

9 (4) by inserting after clause (v) the following
10 new clauses:

11 “(vi) QUALIFYING INCOME OR
12 GAINS.—The term ‘qualifying income or
13 gains’ means—

14 “(I) interest,

15 “(II) dividends, and

16 “(III) in the case of a partner-
17 ship described in the second sentence
18 of section 7704(c)(3), income and
19 gains from commodities (not described
20 in section 1221(a)(1)) or futures, for-
21 wards, and options with respect to
22 commodities.

23 “(vii) INADVERTENT TERMI-
24 NATIONS.—If—

1 “(I) A partnership fails to meet
2 the gross income requirements of this
3 subparagraph,
4 “(II) the Secretary determines
5 that such failure was inadvertent,
6 “(III) no later than a reasonable
7 time after the discovery of such fail-
8 ure, steps are taken so that such part-
9 nership once more meets such gross
10 income requirements, and
11 “(IV) such partnership agrees to
12 make such adjustments (including ad-
13 justments with respect to the part-
14 ners) or to pay such amounts as may
15 be required by the Secretary with re-
16 spect to such period,
17 then, notwithstanding such failure, such
18 entity shall be treated as continuing to
19 meet such gross income requirements for
20 such period.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2016.

1 **SEC. 3621. ORDINARY INCOME TREATMENT IN THE CASE OF**
2 **PARTNERSHIP INTERESTS HELD IN CONNEC-**
3 **TION WITH PERFORMANCE OF SERVICES.**

4 (a) IN GENERAL.—Part IV of subchapter O of chap-
5 ter 1 is amended—

6 (1) by redesignating section 1061 as section
7 1062, and

8 (2) by inserting after section 1060 the following
9 new section:

10 **“SEC. 1061. PARTNERSHIP INTERESTS HELD IN CONNEC-**
11 **TION WITH PERFORMANCE OF SERVICES.**

12 “(a) IN GENERAL.—If one or more applicable part-
13 nership interests are held by a taxpayer at any time during
14 the taxable year, so much of—

15 “(1) the taxpayer’s net capital gain with respect
16 to such interests for such taxable year, as does not
17 exceed

18 “(2) the taxpayer’s recharacterization account
19 balance for such taxable year,
20 shall be treated as ordinary income.

21 “(b) NET CAPITAL GAIN.—

22 “(1) IN GENERAL.—For purposes of subsection
23 (a)(1), net capital gain shall be determined under
24 section 1222, except that such section shall be ap-
25 plied—

1 “(A) without regard to the recharacteriza-
2 tion of any item as ordinary income under this
3 section,
4 “(B) by only taking into account items of
5 gain and loss—
6 “(i) taken into account by the tax-
7 payer under section 702 with respect to
8 any applicable partnership interest,
9 “(ii) recognized by the taxpayer on
10 the disposition of any such interest, or
11 “(iii) recognized by the taxpayer
12 under paragraph (4) on a distribution of
13 property with respect to such interest, and
14 “(C) in the case of a taxable year for
15 which section 1231 gains (as defined in section
16 1231(a)(3)(A)) exceed section 1231 losses (as
17 defined in section 1231(a)(3)(B)), by treating
18 property which is taken into account in deter-
19 mining such gains and losses as capital assets
20 held for more than 1 year.
21 “(2) ALLOCATION TO ITEMS OF GAIN.—The
22 amount treated as ordinary income under subsection
23 (a) shall be allocated ratably among the items of
24 long-term capital gain taken into account in deter-
25 mining net capital gain under paragraph (1).

1 “(3) RECOGNITION OF GAIN ON DISPOSITION
2 OF APPLICABLE PARTNERSHIP INTERESTS.—Any
3 gain on the disposition of any applicable partnership
4 interest shall be recognized notwithstanding any
5 other provision of this title.

6 “(4) RECOGNITION OF GAIN ON DISTRIBUTIONS
7 OF PARTNERSHIP PROPERTY.—

8 “(A) IN GENERAL.—In the case of any dis-
9 tribution of property by a partnership with re-
10 spect to any applicable partnership interest, the
11 partner receiving such property shall recognize
12 gain equal to the excess (if any) of—

13 “(i) the fair market value of such
14 property at the time of such distribution,
15 over

16 “(ii) the adjusted basis of such prop-
17 erty in the hands of such partner (deter-
18 mined without regard to subparagraph
19 (B)).

20 “(B) ADJUSTMENT OF BASIS.—In the case
21 of a distribution to which subparagraph (A) ap-
22 plies, the basis of the distributed property in
23 the hands of the distributee partner shall be the
24 amount determined under subparagraph (A)(i).

25 “(c) RECHARACTERIZATION ACCOUNT BALANCE.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘recharacterization account balance’
3 means, with respect to any taxpayer for any taxable
4 year, the excess (if any) of—
5 “(A) the sum of—
6 “(i) the taxpayer’s aggregate annual
7 recharacterization amounts with respect to
8 applicable partnership interests for such
9 taxable year, plus
10 “(ii) the taxpayer’s recharacterization
11 account balance for the taxable year pre-
12 ceding such taxable year, over
13 “(B) the sum of—
14 “(i) the taxpayer’s net ordinary in-
15 come with respect to applicable partnership
16 interests for such taxable year (determined
17 without regard to this section), plus
18 “(ii) the amount treated as ordinary
19 income of the taxpayer under this section
20 for the taxable year preceding such taxable
21 year.
22 “(2) ANNUAL RECHARACTERIZATION
23 AMOUNT.—For purposes of this subsection—
24 “(A) IN GENERAL.—The term ‘annual re-
25 characterization amount’ means, with respect to

1 any applicable partnership interest for any
2 partnership taxable year, an amount equal to
3 the product of—

4 “(i) the specified rate determined
5 under subparagraph (B) for the calendar
6 year in which such taxable year begins,
7 multiplied by

8 “(ii) the excess (if any) of—

9 “(I) an amount equal to the ap-
10 plicable percentage of the partner-
11 ship’s aggregate invested capital for
12 such taxable year, over

13 “(II) the specified capital con-
14 tribution of the partner with respect
15 to the applicable partnership interest
16 for such taxable year.

17 If a taxpayer holds an applicable partnership
18 interest for less than the entire taxable year,
19 the amount determined under the preceding
20 sentence shall be ratably reduced.

21 “(B) SPECIFIED RATE.—For purposes of
22 subparagraph (A), the term ‘specified rate’
23 means, with respect to any calendar year, a per-
24 centage equal to—

1 “(i) the Federal long-term rate deter-
2 mined under section 1274(d)(1) for the
3 last month of the calendar year, plus
4 “(ii) 10 percentage points.
5 “(C) APPLICABLE PERCENTAGE.—
6 “(i) IN GENERAL.—The term ‘applica-
7 ble percentage’ means, with respect to any
8 applicable partnership interest, the highest
9 percentage of profits of the partnership
10 that could be allocated with respect to such
11 interest for the taxable year (consistent
12 with the partnership agreement and as-
13 suming such facts and circumstances with
14 respect to such taxable year as would re-
15 sult in such highest percentage).
16 “(ii) SECRETARIAL AUTHORITY.—The
17 Secretary shall prescribe rules for the de-
18 termination of the applicable percentage in
19 cases in which the percentage of profits of
20 a partnership that are to be allocated with
21 respect to an applicable partnership inter-
22 est varies on the basis of the aggregate
23 amount of such profits. Such rules may
24 provide a percentage which may be used in
25 lieu of the highest percentage determined

1 under clause (i) in cases where such other
2 percentage is consistent with the purposes
3 of this section.

4 “(D) AGGREGATE INVESTED CAPITAL.—

5 “(i) IN GENERAL.—The term ‘aggre-
6 gate invested capital’ means, with respect
7 to any taxable year, the average daily
8 amount of invested capital of the partner-
9 ship for such taxable year.

10 “(ii) INVESTED CAPITAL.—The term
11 ‘invested capital’ means, with respect to
12 any partnership as of any day, the total
13 cumulative value, determined at the time
14 of contribution, of all money or other prop-
15 erty contributed to the partnership on or
16 before such day.

17 “(iii) REDUCTION FOR LIQUIDATION
18 OF PARTNERSHIP INTERESTS.—The in-
19 vested capital of a partnership shall be re-
20 duced by the aggregate amount distributed
21 in liquidation of interests in the partner-
22 ship.

23 “(iv) TREATMENT OF CERTAIN IN-
24 DEBTEDNESS AS INVESTED CAPITAL.—The

1 following amounts shall be treated as in-
2 vested capital:

3 “(I) PARTNER LOANS.—The ag-
4 gregate value (determined as of the
5 time of the loan) of money or other
6 property which a partner loans to the
7 partnership.

8 “(II) INDEBTEDNESS ELIGIBLE
9 TO SHARE IN EQUITY OF THE PART-
10 NERSHIP.—The face amount of any
11 convertible debt of the partnership or
12 any debt obligation providing equity
13 participation in the partnership.

14 “(E) SPECIFIED CAPITAL CONTRIBU-
15 TION.—

16 “(i) IN GENERAL.—The term ‘speci-
17 fied capital contribution’ means, with re-
18 spect to any applicable partnership interest
19 for any taxable year, the average daily
20 amount of contributed capital with respect
21 to such interest for such year.

22 “(ii) CONTRIBUTED CAPITAL.—The
23 term ‘contributed capital’ means, with re-
24 spect to applicable partnership interest as
25 of any day, the excess (if any) of—

1 “(I) the total cumulative value,
2 determined at the time of contribu-
3 tion, of all money or other property
4 contributed by the partner to the
5 partnership with respect to such inter-
6 est as of such day, over

7 “(II) the total cumulative value,
8 determined at the time of distribution,
9 of all money or other property distrib-
10 uted by the partnership to the partner
11 with respect to such interest as of
12 such day.

13 “(iii) TREATMENT OF RELATED
14 PARTY BORROWINGS.—Any amount bor-
15 rowed directly or indirectly from the part-
16 nership or any other partner of the part-
17 nership or any person related to such other
18 partner or such partnership shall not be
19 taken into account under this subpara-
20 graph. For purposes of the preceding sen-
21 tence, a person shall be treated as related
22 to another person if the relationship be-
23 tween such persons would be described in
24 section 267(b) or 707(b) if such sections
25 and section 267(f) were applied by sub-

1 stituting ‘10 percent’ for ‘50 percent’ each
2 place it appears.

3 “(F) MULTIPLE INTERESTS.—If at any
4 time during a taxable year a taxpayer holds di-
5 rectly or indirectly more than 1 applicable part-
6 nership interest in a single partnership, such in-
7 terests shall be treated as 1 applicable part-
8 nership interest for purposes of applying this para-
9 graph.

10 “(3) NET ORDINARY INCOME.—For purposes of
11 this subsection, the net ordinary income with respect
12 to applicable partnership interests for any taxable
13 year is the excess (if any) of—

14 “(A) the taxpayer’s distributive share of
15 items of income and gain under section 702
16 with respect to applicable partnership interests
17 for such taxable year (determined without re-
18 gard to any items of gain taken into account in
19 determining net capital gain under subsection
20 (b)(1)), over

21 “(B) the taxpayer’s distributive share of
22 items of deduction and loss under section 702
23 with respect to such interests for such taxable
24 year (determined without regard to any items of

1 loss taken into account in determining net cap-
2 ital gain under subsection (b)(1)).

3 “(d) APPLICABLE PARTNERSHIP INTEREST.—For
4 purposes of this section—

5 “(1) IN GENERAL.—The term ‘applicable part-
6 nership interest’ means any interest in a partnership
7 which, directly or indirectly, is transferred to (or is
8 held by) the taxpayer in connection with the per-
9 formance of services by the taxpayer, or any other
10 person, in any applicable trade or business.

11 “(2) APPLICABLE TRADE OR BUSINESS.—

12 “(A) IN GENERAL.—The term ‘applicable
13 trade or business’ means any trade or business
14 conducted on a regular, continuous, and sub-
15 stantial basis which, regardless of whether the
16 activities are conducted in one or more entities,
17 consists, in whole or in part, of—

18 “(i) raising or returning capital,

19 “(ii) investing in (or disposing of)
20 trades or businesses (or identifying trades
21 or businesses for such investing or disposi-
22 tion), and

23 “(iii) developing such trades or busi-
24 nesses.

1 “(B) TREATMENT OF RESEARCH AND EX-
2 PERIMENTATION ACTIVITIES.—Any activity in-
3 volving research or experimentation (within the
4 meaning of section 469(c)(4)) shall be treated
5 as a trade or business for purposes of clauses
6 (ii) and (iii) of subparagraph (A).

7 “(e) TRANSFER OF APPLICABLE PARTNERSHIP IN-
8 TEREST TO RELATED PERSON.—

9 “(1) IN GENERAL.—If a taxpayer transfers any
10 applicable partnership interest, directly or indirectly,
11 to a person related to the taxpayer, the taxpayer
12 shall include in gross income (as ordinary income) so
13 much of the taxpayer’s recharacterization account
14 balance for such taxable year as is allocable to such
15 interest (determined in such manner as the Sec-
16 retary may provide and reduced by any amount
17 treated as ordinary income under subsection (a) with
18 respect to the transfer of such interest).

19 “(2) RELATED PERSON.—For purposes of this
20 paragraph, a person is related to the taxpayer if—

21 “(A) the person is a member of the tax-
22 payer’s family within the meaning of section
23 318(a)(1), or

24 “(B) the person performed a service within
25 the current calendar year or the preceding three

1 calendar years in any applicable trade or busi-
2 ness in which or for which the taxpayer per-
3 formed a service.

4 “(f) REPORTING BY ENTITY OF TAXPAYER’S AN-
5 NUAL RECHARACTERIZATION AMOUNT.—A partnership
6 shall report to the Secretary, and include with the infor-
7 mation required to be furnished under section 6031(b) to
8 each partner, the amount of the partner’s annual re-
9 characterization amount for the taxable year, if any. A
10 similar rule applies to any entity that receives a report
11 of an annual recharacterization amount for the taxable
12 year.

13 “(g) REGULATIONS.—The Secretary shall issue such
14 regulations or other guidance as necessary to carry out
15 this section, including regulations—

16 “(1) to prevent the abuse of the purposes of
17 this section, including through—

18 “(A) the allocation of income to tax indif-
19 ferent parties, or

20 “(B) a reduction in the invested capital of
21 the partnership (including attempts to under-
22 value contributed or loaned property),

23 “(2) which provide that partnership interests
24 shall not fail to be treated as transferred or held in
25 connection with the performance of services merely

1 because the taxpayer also made contributions to the
2 partnership,

3 “(3) which provide for the application of this
4 section in cases where the taxpayer has more than
5 1 applicable interest in a partnership, and

6 “(4) which provide for the application of this
7 section in cases of tiered structures of entities.”.

8 (b) COORDINATION WITH SECTION 83.—Subsection
9 (e) of section 83 is amended by striking “or” at the end
10 of paragraph (4), by striking the period at the end of para-
11 graph (5) and inserting “, or”, and by adding at the end
12 the following new paragraph:

13 “(6) a transfer of a partnership interest to
14 which section 1061 applies.”.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for part IV of subchapter O of chapter 1 is amended by
17 striking the item relating to 1061 and inserting the fol-
18 lowing new items:

“Sec. 1061. Partnership interests held in connection with performance of serv-
ices.

“Sec. 1062. Cross references.”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2014.

22 **SEC. 3622. PARTNERSHIP AUDITS AND ADJUSTMENTS.**

23 (a) REPEAL OF TEFRA PARTNERSHIP AUDIT
24 RULES.—Chapter 63 is amended by striking subchapter

1 C (and by striking the item relating to such subchapter
2 in the table of subchapters for such chapter).

3 (b) REPEAL OF ELECTING LARGE PARTNERSHIP
4 RULES.—

5 (1) IN GENERAL.—Subchapter K of chapter 1
6 is amended by striking part IV (and by striking the
7 item relating to such part in the table of parts for
8 such subchapter).

9 (2) ASSESSMENT RULES RELATING TO ELECT-
10 ING LARGE PARTNERSHIPS.—Chapter 63 is amended
11 by striking subchapter D (and by striking the item
12 relating to such subchapter in the table of sub-
13 chapters for such chapter).

14 (3) EFFECTIVE DATE.—The amendments made
15 by this section shall apply to returns filed after De-
16 cember 31, 2014.

17 (c) PARTNERSHIP AUDIT REFORM.—

18 (1) IN GENERAL.—Chapter 63, as amended by
19 the preceding provisions of this Act, is amended by
20 inserting after subchapter B the following new sub-
21 chapter:

22 **“Subchapter C—Treatment of Partnerships**

“PART I—IN GENERAL

“PART II—PARTNERSHIP ADJUSTMENTS

“PART III—PROCEDURE

“PART IV—DEFINITIONS AND SPECIAL RULES

1 **“PART I—IN GENERAL**

“Sec. 6221. Determination at partnership level.

“Sec. 6222. Partner’s return must be consistent with partnership return.

“Sec. 6223. Designation of partnership representative.

2 **“SEC. 6221. DETERMINATION AT PARTNERSHIP LEVEL.**

3 “(a) IN GENERAL.—Items of income, gain, loss, de-
4 duction, or credit of a partnership for a partnership tax-
5 able year (and any partner’s distributive share thereof)
6 shall be audited, any tax attributable thereto shall be as-
7 sessed and collected, and the applicability of any penalty,
8 addition to tax, or additional amount which relates to an
9 adjustment to any such item or share shall be determined,
10 at the partnership level pursuant to this subchapter.

11 “(b) ELECTION OUT FOR CERTAIN PARTNERSHIPS
12 WITH 100 OR FEWER PARTNERS.—This subchapter shall
13 not apply with respect to any partnership for any taxable
14 year if—

15 “(1) the partnership elects the application of
16 this subsection for such taxable year,

17 “(2) the partnership has 100 or fewer partners
18 on the last day of such taxable year,

19 “(3) each of the partners of such partnership is
20 an individual, a C corporation (other than a real es-
21 tate investment trust or a regulated investment com-
22 pany), any foreign entity that would be treated as a
23 C corporation were it domestic, or an estate of a de-
24 ceased partner,

1 “(4) the election—
2 “(A) is made with a timely filed return for
3 such taxable year, and
4 “(B) includes (in the manner prescribed by
5 the Secretary) a disclosure of the name and
6 taxpayer identification number of each partner
7 of such partnership, and
8 “(5) the partnership notifies each such partner
9 of such election in the manner prescribed by the
10 Secretary.

11 For purposes of paragraph (4)(B), the Secretary may pro-
12 vide for alternative identification of any foreign partners.

13 **“SEC. 6222. PARTNER’S RETURN MUST BE CONSISTENT**
14 **WITH PARTNERSHIP RETURN.**

15 “(a) IN GENERAL.—A partner of any partnership
16 shall, on the partner’s return, treat each item of income,
17 gain, loss, deduction, or credit attributable to such part-
18 nership in a manner which is consistent with the treat-
19 ment of such income, gain, loss, deduction, or credit on
20 the partnership return.

21 “(b) UNDERPAYMENT DUE TO INCONSISTENT
22 TREATMENT ASSESSED AS MATH ERROR.—Any under-
23 payment of tax by a partner by reason of failing to comply
24 with the requirements of subsection (a) shall be assessed
25 and collected in the same manner as if such underpayment

1 were on account of a mathematical or clerical error ap-
2 pearing on the partner's return. Paragraph (2) of section
3 6213(b) shall not apply to any assessment of an under-
4 payment referred to in the preceding sentence.

5 “(c) ADDITION TO TAX FOR FAILURE TO COMPLY
6 WITH SECTION.—For addition to tax in the case of part-
7 ner's disregard of the requirements of this section, see
8 part II of subchapter A of chapter 68.

9 **“SEC. 6223. PARTNERS BOUND BY ACTIONS OF PARTNER-**
10 **SHIP.**

11 “(a) DESIGNATION OF PARTNER.—Each partnership
12 shall designate (in the manner prescribed by the Sec-
13 retary) a partner (or other person) as the partnership rep-
14 resentative who shall have the sole authority to act on be-
15 half of the partnership under this subchapter. In any case
16 in which such a designation is not in effect, the Secretary
17 may select any partner as the partnership representative.

18 “(b) BINDING EFFECT.—A partnership and all part-
19 ners of such partnership shall be bound—

20 “(1) by actions taken under this subchapter by
21 the partnership, and

22 “(2) by any decision in a proceeding brought
23 under this subchapter.

24 **“PART II—PARTNERSHIP ADJUSTMENTS**

“Sec. 6225. Partnership adjustment by Secretary.

“Sec. 6226. Administrative adjustment request by partnership.

1 **“SEC. 6225. PARTNERSHIP ADJUSTMENT BY SECRETARY.**

2 “(a) IN GENERAL.—In the case of any adjustment
3 by the Secretary in the amount of any item of income,
4 gain, loss, deduction, or credit of a partnership, or any
5 partner’s distributive share thereof—

6 “(1) the partnership shall pay any imputed un-
7 derpayment with respect to such adjustment in the
8 adjustment year as provided in section 6232, and

9 “(2) any imputed overpayment shall be taken
10 into account by the partnership in the adjustment
11 year as a reduction in non-separately stated income
12 or an increase in non-separately stated loss (which-
13 ever is appropriate) under section 702(a)(8).

14 “(b) DETERMINATION OF IMPUTED UNDERPAY-
15 MENTS AND OVERPAYMENTS.—For purposes of this sub-
16 chapter—

17 “(1) IN GENERAL.—Except as provided in sub-
18 section (c), any imputed underpayment or imputed
19 overpayment with respect to any partnership adjust-
20 ment for any reviewed year shall be determined—

21 “(A) by netting all adjustments of items of
22 income, gain, loss, or deduction and multiplying
23 such net amount by the highest rate of tax in
24 effect for the reviewed year under section 1 or
25 11,

1 “(B) by treating any net increase or de-
2 crease in loss under subparagraph (A) as a de-
3 crease or increase, respectively, in income, and

4 “(C) by taking into account any adjust-
5 ments to items of credit as an increase or de-
6 crease, as the case may be, in the amount de-
7 termined under subparagraph (A).

8 “(2) ADJUSTMENTS TO DISTRIBUTIVE SHARES
9 OF PARTNERS NOT NETTED.—In the case of any ad-
10 justment which reallocates the distributive share of
11 any item from one partner to another, such adjust-
12 ment shall be taken into account under paragraph
13 (1) by disregarding—

14 “(A) any decrease in any item of income or
15 gain, and

16 “(B) any increase in any item of deduc-
17 tion, loss, or credit.

18 “(c) MODIFICATION OF IMPUTED UNDERPAY-
19 MENTS.—

20 “(1) METHOD IN GENERAL.—The Secretary
21 shall establish procedures under which the imputed
22 underpayment amount may be modified consistent
23 with the requirements of this subsection.

24 “(2) AMENDED RETURNS OF PARTNERS.—Such
25 procedures shall provide that if—

1 “(A) one or more partners file returns for
2 the taxable year of the partners which includes
3 the end of the reviewed year of the partnership,
4 “(B) such returns take into account all ad-
5 justments under subsection (a) properly allo-
6 cable to such partners (and for any other tax-
7 able year with respect to which any tax at-
8 tribute is affected by reason of such adjust-
9 ments), and
10 “(C) payment of any tax due is included
11 with such return,
12 then the imputed underpayment amount shall be de-
13 termined without regard to the portion of the adjust-
14 ments so taken into account.
15 “(3) REALLOCATION OF DISTRIBUTIVE
16 SHARE.—In the case of any adjustment which reallo-
17 cates the distributive share of any item from one
18 partner to another, paragraph (2) shall apply only if
19 returns are filed by all partners affected by such ad-
20 justment.
21 “(4) YEAR AND DAY FOR SUBMISSION TO SEC-
22 RETARY.—Anything required to be submitted pursu-
23 ant to paragraph (1) shall be submitted to the Sec-
24 retary not later than the close the 180-day period
25 beginning on the date on which the notice of a pro-

1 posed partnership adjustment is mailed under sec-
2 tion 6231 unless such period is extended with the
3 consent of the Secretary.

4 “(5) DECISION OF SECRETARY.—Any modifica-
5 tion of the imputed underpayment amount under
6 this subsection shall be made only upon approval of
7 such modification by the Secretary.

8 “(d) DEFINITIONS AND SPECIAL RULE.—For pur-
9 poses of this subchapter—

10 “(1) REVIEWED YEAR.—The term ‘reviewed
11 year’ means the partnership taxable year to which
12 the item being adjusted relates.

13 “(2) ADJUSTMENT YEAR.—The term ‘adjust-
14 ment year’ means the partnership taxable year in
15 which—

16 “(A) in the case of an adjustment pursu-
17 ant to the decision of a court in a proceeding
18 brought under section 6234, such decision be-
19 comes final,

20 “(B) in the case of an administrative ad-
21 justment request under section 6226, such ad-
22 ministrative adjustment request is made, or

23 “(C) in any other case, notice of the final
24 partnership adjustment is mailed under section
25 6231.

1 **“SEC. 6226. ADMINISTRATIVE ADJUSTMENT REQUEST BY**
2 **PARTNERSHIP.**

3 “(a) IN GENERAL.—A partnership may file a request
4 for an administrative adjustment in the amount of any
5 item of income, gain, loss, deduction, or credit of the part-
6 nership for any partnership taxable year, but only to the
7 extent such adjustment results in an imputed under-
8 payment.

9 “(b) ADJUSTMENT.—Any adjustment under sub-
10 section (a) shall be determined and taken into account by
11 the partnership under rules similar to the rules of section
12 6225 (other than subsection (c) thereof) for the part-
13 nership taxable year in which the administrative adjustment
14 request is made.

15 “(c) PERIOD OF LIMITATIONS.—A partnership may
16 not file such a request—

17 “(1) more than 3 years after the later of—

18 “(A) the date on which the partnership re-
19 turn for such year is filed, or

20 “(B) the last day for filing the partnership
21 return for such year (determined without re-
22 gard to extensions), and

23 “(2) after any notice of an administrative pro-
24 ceeding with respect to the taxable year is mailed
25 under section 6231.

1 **“PART III—PROCEDURE**

- “Sec. 6231. Notice of proceedings and adjustment.
- “Sec. 6232. Assessment, collection, and payment.
- “Sec. 6233. Penalties and interest.
- “Sec. 6234. Judicial review of partnership adjustment.
- “Sec. 6235. Period of limitations on making adjustments.

2 **“SEC. 6231. NOTICE OF PROCEEDINGS AND ADJUSTMENT.**

3 “(a) IN GENERAL.—The Secretary shall mail to the
4 partnership and the partnership representative—

5 “(1) notice of any administrative proceeding
6 initiated at the partnership level with respect to an
7 adjustment of any item of income, gain, loss, deduc-
8 tion, or credit of a partnership for a partnership tax-
9 able year, or any partner’s distributive share thereof,

10 “(2) notice of any proposed partnership adjust-
11 ment resulting from such proceeding, and

12 “(3) notice of any final partnership adjustment
13 resulting from such proceeding.

14 Any notice of a final partnership adjustment shall not be
15 mailed earlier than 180 days after the date on which the
16 notice of the proposed partnership adjustment is mailed.

17 Such notices shall be sufficient if mailed to the last known
18 address of the partnership representative or the partner-
19 ship (even if the partnership has terminated its existence).

20 The first sentence shall apply to any proceeding with re-
21 spect to an administrative adjustment request filed by a
22 partnership under section 6226.

1 “(b) FURTHER NOTICES RESTRICTED.—If the Sec-
2 retary mails a notice of a final partnership adjustment to
3 any partnership for any partnership taxable year and the
4 partnership files a petition under section 6234 with re-
5 spect to such notice, in the absence of a showing of fraud,
6 malfeasance, or misrepresentation of a material fact, the
7 Secretary shall not mail another such notice to such part-
8 nership with respect to such taxable year.

9 “(c) AUTHORITY TO RESCIND NOTICE WITH PART-
10 NERSHIP CONSENT.—The Secretary may, with the con-
11 sent of the partnership, rescind any notice of a partner-
12 ship adjustment mailed to such partnership. Any notice
13 so rescinded shall not be treated as a notice of a partner-
14 ship adjustment for purposes of this subchapter, and the
15 taxpayer shall have no right to bring a proceeding under
16 section 6234 with respect to such notice.

17 **“SEC. 6232. ASSESSMENT, COLLECTION, AND PAYMENT.**

18 “(a) IN GENERAL.—Any imputed underpayment—
19 “(1) shall be assessed and collected in the same
20 manner as if it were a tax imposed for the adjust-
21 ment year by subtitle A, and
22 “(2) shall be paid on or before the return due
23 date for the adjustment year.

24 “(b) LIMITATION ON ASSESSMENT.—Except as oth-
25 erwise provided in this chapter, no assessment of a defi-

1 ciency may be made (and no levy or proceeding in any
2 court for the collection of any amount resulting from such
3 adjustment may be made, begun or prosecuted) before—

4 “(1) the close of the 90th day after the day on
5 which a notice of a final partnership adjustment was
6 mailed, and

7 “(2) if a petition is filed under section 6234
8 with respect to such notice, the decision of the court
9 has become final.

10 “(c) PREMATURE ACTION MAY BE ENJOINED.—Not-
11 withstanding section 7421(a), any action which violates
12 subsection (b) may be enjoined in the proper court, includ-
13 ing the Tax Court. The Tax Court shall have no jurisdic-
14 tion to enjoin any action under this subsection unless a
15 timely petition has been filed under section 6234 and then
16 only in respect of the adjustments that are the subject
17 of such petition.

18 “(d) EXCEPTIONS TO RESTRICTIONS ON ADJUST-
19 MENTS.—

20 “(1) ADJUSTMENTS ARISING OUT OF MATH OR
21 CLERICAL ERRORS.—

22 “(A) IN GENERAL.— If the partnership is
23 notified that, on account of a mathematical or
24 clerical error appearing on the partnership re-
25 turn, an adjustment to a partnership item is re-

1 quired, rules similar to the rules of paragraphs
2 (1) and (2) of section 6213(b) shall apply to
3 such adjustment.

4 “(B) SPECIAL RULE.—If a partnership is
5 a partner in another partnership, any adjust-
6 ment on account of such partnership’s failure to
7 comply with the requirements of section
8 6222(a) with respect to its interest in such
9 other partnership shall be treated as an adjust-
10 ment referred to in subparagraph (A), except
11 that paragraph (2) of section 6213(b) shall not
12 apply to such adjustment.

13 “(2) PARTNERSHIP MAY WAIVE RESTRIC-
14 TIONS.—The partnership may at any time (whether
15 or not any notice of partnership adjustment has
16 been issued), by a signed notice in writing filed with
17 the Secretary, waive the restrictions provided in sub-
18 section (b) on the making of any partnership adjust-
19 ment.

20 “(e) LIMIT WHERE NO PROCEEDING BEGUN.—If no
21 proceeding under section 6234 is begun with respect to
22 any notice of a final partnership adjustment during the
23 90-day period described in subsection (b) thereof, the
24 amount for which the partnership is liable under section

1 6225 shall not exceed the amount determined in accord-
2 ance with such notice.

3 **“SEC. 6233. PENALTIES AND INTEREST.**

4 “(a) PENALTIES AND INTEREST DETERMINED FROM
5 REVIEWED YEAR.—

6 “(1) IN GENERAL.—In the case of an imputed
7 underpayment with respect to a partnership adjust-
8 ment for a reviewed year, the partnership—

9 “(A) shall pay to the Secretary interest
10 computed under paragraph (2), and

11 “(B) shall be liable for any penalty, addi-
12 tion to tax, or additional amount as provided in
13 paragraph (3).

14 “(2) DETERMINATION OF AMOUNT OF INTER-
15 EST.—The interest computed under this paragraph
16 with respect to any partnership adjustment is the in-
17 terest which would be determined under chapter
18 67—

19 “(A) on the imputed underpayment deter-
20 mined with respect to such adjustment,

21 “(B) for the period beginning on the day
22 after the return due date for the reviewed year
23 and ending on the return due date for the ad-
24 justment year (or, if earlier, the date payment
25 of the imputed underpayment is made).

1 Proper adjustments in the amount determined under
2 the preceding sentence shall be made for adjust-
3 ments required for partnership taxable years after
4 the reviewed year and before the adjustment year by
5 reason of such partnership adjustment.

6 “(3) PENALTIES.—A partnership shall be liable
7 for any penalty, addition to tax, or additional
8 amount for which it would have been liable if such
9 partnership had been an individual subject to tax
10 under chapter 1 for the reviewed year and the im-
11 puted underpayment were an actual underpayment
12 (or understatement) for such year.

13 “(b) INTEREST AND PENALTIES WITH RESPECT TO
14 ADJUSTMENT YEAR RETURN.—

15 “(1) IN GENERAL.—In the case of any failure
16 to pay an imputed underpayment on the date pre-
17 scribed therefor, the partnership shall be liable—

18 “(A) for interest as determined under
19 paragraph (2), and

20 “(B) for any penalty, addition to tax, or
21 additional amount as determined under para-
22 graph (3).

23 “(2) INTEREST.—Interest determined under
24 this paragraph is the interest that would be deter-
25 mined by treating the imputed underpayment as an

1 underpayment of tax imposed in the adjustment
2 year.

3 “(3) PENALTIES.—Penalties, additions to tax,
4 or additional amounts determined under this para-
5 graph are the penalties, additions to tax, or addi-
6 tional amounts that would be determined—

7 “(A) by applying section 6651(a)(2) to
8 such failure to pay.

9 “(B) by treating the imputed under-
10 payment as an underpayment of tax for pur-
11 poses of part II of subchapter A of chapter 68.

12 **“SEC. 6234. JUDICIAL REVIEW OF PARTNERSHIP ADJUST-
13 MENT.**

14 “(a) IN GENERAL.—Within 90 days after the date
15 on which a notice of a final partnership adjustment is
16 mailed under section 6231 with respect to any partnership
17 taxable year, the partnership may file a petition for a re-
18 adjustment for such taxable year with—

19 “(1) the Tax Court,

20 “(2) the district court of the United States for
21 the district in which the partnership’s principal place
22 of business is located, or

23 “(3) the Claims Court.

24 “(b) JURISDICTIONAL REQUIREMENT FOR BRINGING
25 ACTION IN DISTRICT COURT OR CLAIMS COURT.—

1 “(1) IN GENERAL.—A readjustment petition
2 under this section may be filed in a district court of
3 the United States or the Claims Court only if the
4 partnership filing the petition deposits with the Sec-
5 retary, on or before the date the petition is filed, the
6 amount of the imputed underpayment (as of the
7 date of the filing of the petition) if the partnership
8 adjustment was made as provided by the notice of
9 final partnership adjustment. The court may by
10 order provide that the jurisdictional requirements of
11 this paragraph are satisfied where there has been a
12 good faith attempt to satisfy such requirement and
13 any shortfall of the amount required to be deposited
14 is timely corrected.

15 “(2) INTEREST PAYABLE.—Any amount depos-
16 ited under paragraph (1), while deposited, shall not
17 be treated as a payment of tax for purposes of this
18 title (other than chapter 67).

19 “(c) SCOPE OF JUDICIAL REVIEW.—A court with
20 which a petition is filed in accordance with this section
21 shall have jurisdiction to determine all items of income,
22 gain, loss, deduction, or credit of the partnership for the
23 partnership taxable year to which the notice of final part-
24 nership adjustment relates, the proper allocation of such
25 items among the partners, and the applicability of any

1 penalty, addition to tax, or additional amount for which
2 the partnership may be liable under this subchapter.

3 “(d) DETERMINATION OF COURT REVIEWABLE.—
4 Any determination by a court under this section shall have
5 the force and effect of a decision of the Tax Court or a
6 final judgment or decree of the district court or the Claims
7 Court, as the case may be, and shall be reviewable as such.
8 The date of any such determination shall be treated as
9 being the date of the court’s order entering the decision.

10 “(e) EFFECT OF DECISION DISMISSING ACTION.—If
11 an action brought under this section is dismissed other
12 than by reason of a rescission under section 6231(c), the
13 decision of the court dismissing the action shall be consid-
14 ered as its decision that the notice of final partnership
15 adjustment is correct, and an appropriate order shall be
16 entered in the records of the court.

17 **“SEC. 6235. PERIOD OF LIMITATIONS ON MAKING ADJUST-**
18 **MENTS.**

19 “(a) IN GENERAL.—Except as otherwise provided in
20 this section, no adjustment under this subpart for any
21 partnership taxable year may be made after the date
22 which is 3 years after the latest of—

23 “(1) the date on which the partnership return
24 for such taxable year was filed,

1 “(2) the return due date for the taxable year,

2 or

3 “(3) the date on which the partnership filed an
4 administrative adjustment request with respect to
5 such year under section 6226.

6 “(b) EXTENSION BY AGREEMENT.— The period de-
7 scribed in subsection (a) (including an extension period
8 under this subsection) may be extended by an agreement
9 entered into by the Secretary and the partnership before
10 the expiration of such period.

11 “(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

12 “(1) FALSE RETURN.— In the case of a false
13 or fraudulent partnership return with intent to
14 evade tax, the adjustment may be made at any time.

15 “(2) SUBSTANTIAL OMISSION OF INCOME.—If
16 any partnership omits from gross income an amount
17 properly includible therein and such amount is de-
18 scribed in section 6501(e)(1)(A), subsection (a) shall
19 be applied by substituting ‘6 years’ for ‘3 years’.

20 “(3) NO RETURN.—In the case of a failure by
21 a partnership to file a return for any taxable year,
22 the adjustment may be made at any time.

23 “(4) RETURN FILED BY SECRETARY.—For pur-
24 poses of this section, a return executed by the Sec-
25 retary under subsection (b) of section 6020 on be-

1 half of the partnership shall not be treated as a re-
2 turn of the partnership.

3 “(d) SUSPENSION WHEN SECRETARY MAILS NOTICE
4 OF ADJUSTMENT.—If notice of a final partnership adjust-
5 ment with respect to any taxable year is mailed under sec-
6 tion 6231, the running of the period specified in sub-
7 section (a) (as modified by the other provisions of this sec-
8 tion) shall be suspended—

9 “(1) for the period during which an action may
10 be brought under section 6234 (and, if a petition is
11 filed under such section with respect to such notice,
12 until the decision of the court becomes final), and

13 “(2) for 1 year thereafter.

14 **“PART IV—DEFINITIONS AND SPECIAL RULES**

“Sec. 6241. Definitions and special rules.

15 **“SEC. 6241. DEFINITIONS AND SPECIAL RULES.**

16 “(a) DEFINITIONS AND SPECIAL RULES.—For pur-
17 poses of this subchapter—

18 “(1) PARTNERSHIP.—The term ‘partnership’
19 means any partnership required to file a return
20 under section 6031(a).

21 “(2) PARTNER.—The term ‘partner’ means—

22 “(A) a partner in the partnership, and

23 “(B) any other person whose income tax li-
24 ability under subtitle A is determined in whole

1 or in part by taking into account directly or in-
2 directly income, gain, deduction, or loss of the
3 partnership.

4 “(b) PARTNERSHIP ADJUSTMENT.—The term ‘part-
5 nership adjustment’ means any adjustment in the amount
6 of any item of income, gain, loss, deduction, or credit of
7 a partnership, or any partner’s distributive share thereof.

8 “(c) RETURN DUE DATE.—The term ‘return due
9 date’ means, with respect to the taxable year, the date
10 prescribed for filing the partnership return for such tax-
11 able year (determined without regard to extensions).

12 “(d) JOINT AND SEVERAL LIABILITY.—

13 “(1) IN GENERAL.—The partnership and any
14 partner of the partnership shall be jointly and sever-
15 ally liable for any imputed underpayment and any
16 penalty, addition to tax, or additional amount attrib-
17 utable thereto.

18 “(2) PERIOD FOR ASSESSMENT OF PART-
19 NERS.—The period for assessment of an imputed
20 underpayment with respect to a partner of a part-
21 nership shall not expire earlier than 3 years after
22 the date on which an assessment of such imputed
23 underpayment was made with respect to the partner-
24 ship.

1 “(3) DETERMINING PARTNERS.—A person shall
2 be treated as partner of the partnership if such per-
3 son is a partner of such partnership at any time
4 during the reviewed or adjustment year.

5 “(e) PAYMENTS NONDEDUCTIBLE.—No deduction
6 shall be allowed under subtitle A for any payment required
7 to be made by a partnership under this subchapter.

8 “(f) SPECIAL RULE FOR DEDUCTIONS, LOSSES, AND
9 CREDITS OF FOREIGN PARTNERSHIPS.—Except to the ex-
10 tent otherwise provided in regulations, in the case of any
11 partnership the partnership representative of which re-
12 sides outside the United States or the books of which are
13 maintained outside the United States, no deduction, loss,
14 or credit shall be allowable to any partner unless section
15 6031 is complied with for the partnership’s taxable year
16 in which such deduction, loss, or credit arose at such time
17 as the Secretary prescribes by regulations.

18 “(g) PARTNERSHIPS HAVING PRINCIPAL PLACE OF
19 BUSINESS OUTSIDE UNITED STATES.—For purposes of
20 sections 6234, a principal place of business located outside
21 the United States shall be treated as located in the Dis-
22 trict of Columbia.

23 “(h) PARTNERSHIPS IN CASES UNDER TITLE 11 OF
24 UNITED STATES CODE.—

1 “(1) SUSPENSION OF PERIOD OF LIMITATIONS
2 ON MAKING ADJUSTMENT, ASSESSMENT, OR COLLEC-
3 TION.—The running of any period of limitations pro-
4 vided in this subchapter on making a partnership
5 adjustment (or provided by section 6501 or 6502 on
6 the assessment or collection of any imputed under-
7 payment determined under this subchapter) shall, in
8 a case under title 11 of the United States Code, be
9 suspended during the period during which the Sec-
10 retary is prohibited by reason of such case from
11 making the adjustment (or assessment or collection)
12 and—

13 “(A) for adjustment or assessment, 60
14 days thereafter, and

15 “(B) for collection, 6 months thereafter.

16 A rule similar to the rule of section 6213(f)(2) shall
17 apply for purposes of section 6232(b).

18 “(2) SUSPENSION OF PERIOD OF LIMITATION
19 FOR FILING FOR JUDICIAL REVIEW.—The running
20 of the period specified in section 6234 shall, in a
21 case under title 11 of the United States Code, be
22 suspended during the period during which the part-
23 nership is prohibited by reason of such case from fil-
24 ing a petition under section 6234 and for 60 days
25 thereafter.”.

1 (2) CLERICAL AMENDMENT.—The table of sub-
2 chapters for chapter 63 is amended by inserting
3 after the item relating to subchapter B the following
4 new items:

 “SUBCHAPTER C. TREATMENT OF PARTNERSHIPS.”.

5 (d) CONFORMING AMENDMENTS.—

6 (1) Section 6422 is amended by striking para-
7 graph (12).

8 (2) Section 6501(n) is amended by striking
9 paragraphs (2) and (3) and by striking “CROSS
10 REFERENCES” and all that follows through “For pe-
11 riod of limitations” and inserting “CROSS REF-
12 ERENCE.—For period of limitations”.

13 (3) Section 6503(a)(1) is amended by striking
14 “(or section 6229” and all that follows through “of
15 section 6230(a))”.

16 (4) Section 6504 is amended by striking para-
17 graph (11).

18 (5) Section 6511 is amended by striking sub-
19 section (g).

20 (6) Section 6512(b)(3) is amended by striking
21 the second sentence.

22 (7) Section 6515 is amended by striking para-
23 graph (6).

24 (8) Section 6601(c) is amended by striking the
25 last sentence.

1 (9) Section 7421(a) is amended by striking
2 “6225(b), 6246(b)” and inserting “6232(c)”.

3 (10) Section 7422 is amended by striking sub-
4 section (h).

5 (11) Section 7459(c) is amended by striking
6 “section 6226” and all that follows through “or
7 6252” and inserting “section 6234”.

8 (12) Section 7482(b)(1) is amended—

9 (A) in subparagraph (E), by striking “sec-
10 tion 6226, 6228, 6247, or 6252” and inserting
11 “section 6234”,

12 (B) by striking subparagraph (F), by strik-
13 ing “or” at the end of subparagraph (E) and
14 inserting a period, and by inserting “or” at the
15 end of subparagraph (D), and

16 (C) in the last sentence, by striking “sec-
17 tion 6226, 6228(a), or 6234(c)” and inserting
18 “section 6234”.

19 (13) Section 7485(b) is amended by striking
20 “section 6226, 6228(a), 6247, or 6252” and insert-
21 ing “section 6234”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to returns filed for partnership tax-
24 able years ending after December 31, 2014, except that
25 a partnership may elect (at such time and in such form

1 and manner as the Secretary of the Treasury may pre-
2 scribe) for such amendments to apply to any return of the
3 partnership filed for partnership taxable years ending
4 after the date of the enactment of this Act and before Jan-
5 uary 1, 2015.

6 **PART 3—REITS AND RICS**

7 **SEC. 3631. PREVENTION OF TAX-FREE SPINOFFS INVOLV-**
8 **ING REITS.**

9 (a) IN GENERAL.—Section 355 is amended by adding
10 at the end the following new subsection:

11 “(h) SECTION NOT TO APPLY TO DISTRIBUTIONS IN-
12 VOLVING REAL ESTATE INVESTMENT TRUSTS.—This sec-
13 tion (and so much of section 356 as relates to this section)
14 shall not apply to any distribution if either the distributing
15 corporation or controlled corporation is a real estate in-
16 vestment trust.”.

17 (b) PREVENTION OF REIT ELECTION FOLLOWING
18 TAX-FREE SPIN OFF.—Section 856(c) is amended by re-
19 designating paragraph (8) as paragraph (9) and by insert-
20 ing after paragraph (7) the following new paragraph:

21 “(8) ELECTION AFTER TAX-FREE REORGANIZA-
22 TION.—If a corporation was a distributing corpora-
23 tion or a controlled corporation with respect to any
24 distribution to which section 355 applied, such cor-
25 poration (and any successor corporation) shall not

1 be eligible to make any election under subsection
2 (c)(1) for any taxable year prior to the 10th taxable
3 year which begins after the taxable year in which
4 such distribution was made.”.

5 (c) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as otherwise pro-
7 vided in this subsection, the amendments made by
8 this section shall apply to distributions on or after
9 February 26, 2014.

10 (2) TRANSITION RULE.—The amendments
11 made by this section shall not apply to any distribu-
12 tion made pursuant to an agreement which was
13 binding on February 26, 2014, and at all times
14 thereafter.

15 **SEC. 3632. EXTENSION OF PERIOD FOR PREVENTION OF**
16 **REIT ELECTION FOLLOWING REVOCATION**
17 **OR TERMINATION.**

18 (a) IN GENERAL.—Section 856(g)(3) is amended by
19 striking “fifth” and inserting “10th”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to terminations and revocations
22 after December 31, 2014.

1 **SEC. 3633. CERTAIN SHORT-LIFE PROPERTY NOT TREATED**
2 **AS REAL PROPERTY FOR PURPOSES OF REIT**
3 **PROVISIONS.**

4 (a) IN GENERAL.—Section 856(c)(5) is amended by
5 adding at the end the following new subparagraph:

6 “(L) REAL PROPERTY.—The term ‘real
7 property’ shall not include any tangible prop-
8 erty with a class life of less than 27.5 years.
9 For purposes of the preceding sentence, class
10 life of tangible property for any taxable year
11 shall be the greater of—

12 “(i) the class life of such property in
13 the hands of the real estate investment
14 trust, or

15 “(ii) the class life which would be ap-
16 plicable to such property if such property
17 was placed in service in the taxable year.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years beginning after
20 December 31, 2016.

21 **SEC. 3634. REPEAL OF SPECIAL RULES FOR TIMBER HELD**
22 **BY REITS.**

23 (a) IN GENERAL.—Section 856(c)(5)(L), as added by
24 this Act, is amended by inserting “timber or” after “shall
25 not include”.

26 (b) CONFORMING AMENDMENTS.—

1 (1) Section 856(c)(2) is amended by inserting
2 “and” at the end of subparagraph (G), by striking
3 “and” at the end of subparagraph (H), and by strik-
4 ing subparagraph (I).

5 (2) Section 856(c)(5), as amended by the pre-
6 ceding provisions of this Act, is amended by striking
7 subparagraphs (H) and (I) and by redesignating
8 subparagraphs (J), (K), and (L) as subparagraphs
9 (H), (I) and (J), respectively.

10 (3) Section 856(c), as amended by the pre-
11 ceding provisions of this Act, is amended by striking
12 paragraph (9).

13 (4) Section 857(b)(6) is amended by striking
14 subparagraphs (D), (G), and (H), and by redesign-
15 ating subparagraphs (E) and (F) as subparagraphs
16 (D) and (E), respectively.

17 (5) Section 857(b)(6)(D), as redesignated by
18 paragraph (4), is amended by striking “subpara-
19 graphs (C) and (D)” and inserting “subparagraph
20 (C)”.

21 (6) Section 857(b)(6)(E), as redesignated by
22 paragraph (4), is amended—

23 (A) by striking “subparagraph (C) or (D)”
24 and inserting “subparagraph (C)”, and

1 (B) by striking “subparagraphs (C), (D),
2 and (E)” and inserting “subparagraphs (C) and
3 (D)”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2016.

7 **SEC. 3635. LIMITATION ON FIXED PERCENTAGE RENT AND**
8 **INTEREST EXCEPTIONS FOR REIT INCOME**
9 **TESTS.**

10 (a) IN GENERAL.—Section 856 is amended by adding
11 at the end the following new subsection:

12 “(o) LIMITATION ON FIXED PERCENTAGE RENT AND
13 INTEREST EXCEPTIONS.—

14 “(1) IN GENERAL.—If the fixed percentage rent
15 and interest income received or accrued by a real es-
16 tate investment trust from a single C corporation
17 (other than a taxable REIT subsidiary of such real
18 estate investment trust) for any taxable year exceeds
19 either—

20 “(A) 25 percent of the fixed percentage
21 rent income received or accrued by such real es-
22 tate investment trust for such taxable year, or

23 “(B) 25 percent of the fixed percentage in-
24 terest income received or accrued by such real
25 estate investment trust for such taxable year,

1 then, notwithstanding subsection (d)(2), none of the
2 fixed percentage rent income received or accrued
3 from such corporation which is attributable to leases
4 entered into after December 31, 2014, shall be
5 treated as rents from real property and, notwith-
6 standing subsection (f), none of the fixed percentage
7 interest income received or accrued from such cor-
8 poration which is attributable to debt instruments
9 acquired after December 31, 2014, shall be treated
10 as interest.

11 “(2) FIXED PERCENTAGE RENT AND INTEREST
12 INCOME.—For purposes of this subsection—

13 “(A) FIXED PERCENTAGE RENT AND IN-
14 TEREST INCOME.—The term ‘fixed percentage
15 rent and interest income’ means the sum of the
16 fixed percentage rent income plus the fixed per-
17 centage interest income.

18 “(B) FIXED PERCENTAGE RENT IN-
19 COME.—The term ‘fixed percentage rent in-
20 come’ means amounts described in subsection
21 (d)(2)(A) which are based on a fixed percentage
22 or percentages of receipts or sales.

23 “(C) FIXED PERCENTAGE INTEREST IN-
24 COME.—The term ‘fixed percentage interest in-
25 come’ means amounts described in subsection

1 (f)(1) which are based on a fixed percentage or
2 percentages of receipts or sales.

3 “(3) AGGREGATION RULE.—Members of the
4 same affiliated group (as defined in section 1504,
5 applied by substituting ‘50 percent’ for ‘80 percent’
6 each place it appears therein) shall be treated as 1
7 corporation for purposes of paragraph (1).

8 “(4) TREATMENT OF MODIFICATIONS.—For
9 purposes of paragraph (1), any material modifica-
10 tion (including any extension of the term) of a lease
11 or debt instrument shall be treated as a new lease
12 or debt instrument, as the case may be, entered into
13 on the date of such modification.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years ending after De-
16 cember 31, 2014.

17 **SEC. 3636. REPEAL OF PREFERENTIAL DIVIDEND RULE FOR**
18 **PUBLICLY OFFERED REITS.**

19 (a) IN GENERAL.—Paragraph (1) of section 562(c),
20 as amended by the preceding provisions of this Act, is
21 amended by inserting “or a publicly offered REIT” after
22 “a publicly offered regulated investment company”.

23 (b) PUBLICLY OFFERED REIT.—Subsection (c) of
24 section 562, as so amended, is amended by adding at the
25 end the following new paragraph:

1 “(3) PUBLICLY OFFERED REIT.—For purposes
2 of this subsection, the term ‘publicly offered REIT’
3 means a real estate investment trust which is re-
4 quired to file annual and periodic reports with the
5 Securities and Exchange Commission under the Se-
6 curities Exchange Act of 1934.”.

7 (c) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to distributions in taxable years
9 beginning after December 31, 2014.

10 **SEC. 3637. AUTHORITY FOR ALTERNATIVE REMEDIES TO**
11 **ADDRESS CERTAIN REIT DISTRIBUTION FAIL-**
12 **URES.**

13 (a) IN GENERAL.—Subsection (e) of section 562 is
14 amended—

15 (1) by striking “In the case of a real estate in-
16 vestment trust” and inserting the following:

17 “(1) DETERMINATION OF EARNINGS AND PROF-
18 ITS FOR PURPOSES OF DIVIDENDS PAID DEDUC-
19 TION.—In the case of a real estate investment
20 trust”, and

21 (2) by adding at the end the following new
22 paragraph:

23 “(2) AUTHORITY TO PROVIDE ALTERNATIVE
24 REMEDIES FOR CERTAIN FAILURES.—In the case of
25 a failure of a distribution by a real estate investment

1 trust to comply with the requirements of subsection
2 (c), the Secretary may provide an appropriate rem-
3 edy to cure such failure in lieu of not considering
4 the distribution to be a dividend for purposes of
5 computing the dividends paid deduction if—

6 “(A) the Secretary determines that such
7 failure is inadvertent or is due to reasonable
8 cause and not due to willful neglect, or

9 “(B) such failure is of a type of failure
10 which the Secretary has identified for purposes
11 of this paragraph as being described in sub-
12 paragraph (A).”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to distributions in taxable years
15 beginning after December 31, 2014.

16 **SEC. 3638. LIMITATIONS ON DESIGNATION OF DIVIDENDS**
17 **BY REITS.**

18 (a) IN GENERAL.—Section 857 is amended by redess-
19 ignating subsection (g) as subsection (h) and by inserting
20 after subsection (f) the following new subsection:

21 “(g) LIMITATIONS ON DESIGNATION OF DIVI-
22 DENDS.—

23 “(1) OVERALL LIMITATION.—The aggregate
24 amount of dividends designated by a real estate in-
25 vestment trust under subsections (b)(3)(C) and

1 (c)(2)(A) with respect to any taxable year may not
2 exceed the dividends paid by such trust with respect
3 to such year. For purposes of the preceding sen-
4 tence, dividends paid after the close of the taxable
5 year described in section 858 shall be treated as
6 paid with respect to such year.

7 “(2) PROPORTIONALITY.—The Secretary may
8 prescribe regulations or other guidance requiring the
9 proportionality of the designation of particular types
10 of dividends among shares or beneficial interests of
11 a real estate investment trust.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to distributions in taxable years
14 beginning after December 31, 2014.

15 **SEC. 3639. NON-REIT EARNINGS AND PROFITS REQUIRED**
16 **TO BE DISTRIBUTED BY REIT IN CASH.**

17 (a) IN GENERAL.—Section 857, as amended by the
18 preceding provisions of this Act, is amended by redesi-
19 gnating subsection (h) as subsection (i) and by inserting
20 after subsection (g) the following new subsection:

21 “(h) DETERMINATION OF EARNINGS AND PROFITS
22 ACCUMULATED IN NON-REIT YEARS.—

23 “(1) IN GENERAL.—For purposes of subsection
24 (a)(2)(B), distributions during the transition period
25 shall be taken into account in determining accumu-

1 lated earning and profits only if such distributions
2 are made in cash.

3 “(2) TRANSITION PERIOD.—For purposes of
4 this subsection, the term ‘transition period’ means
5 the period of taxable years beginning with the last
6 taxable year (other than a short taxable year) which
7 was a non-REIT year (as defined in subsection (a))
8 and ending with the first taxable year to which the
9 provisions of this part apply.”.

10 (b) CONFORMING AMENDMENT.—Section
11 857(a)(2)(B) is amended by inserting “(determined as
12 provided in subsection (h))” before the period at the end.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to distributions made on or after
15 February 26, 2014.

16 **SEC. 3640. DEBT INSTRUMENTS OF PUBLICLY OFFERED**
17 **REITS AND MORTGAGES TREATED AS REAL**
18 **ESTATE ASSETS.**

19 (a) DEBT INSTRUMENTS OF PUBLICLY OFFERED
20 REITS TREATED AS REAL ESTATE ASSETS.—

21 (1) IN GENERAL.—Subparagraph (B) of section
22 856(e)(5) is amended—

23 (A) by striking “and shares” and inserting
24 “, shares”, and

1 (B) by inserting “, and debt instruments
2 issued by publicly offered REITs” before the
3 period at the end of the first sentence.

4 (2) INCOME FROM NONQUALIFIED DEBT IN-
5 STRUMENTS OF PUBLICLY OFFERED REITS NOT
6 QUALIFIED FOR PURPOSES OF SATISFYING THE 75
7 PERCENT GROSS INCOME TEST.—Subparagraph (H)
8 of section 856(c)(3) is amended by inserting “(other
9 than a nonqualified publicly offered REIT debt in-
10 strument)” after “real estate asset”.

11 (3) 25 PERCENT ASSET LIMITATION ON HOLD-
12 ING OF NONQUALIFIED DEBT INSTRUMENTS OF PUB-
13 LICLY OFFERED REITS.—Subparagraph (B) of sec-
14 tion 856(c)(4) is amended by redesignating clause
15 (iii) as clause (iv) and by inserting after clause (ii)
16 the following new clause:

17 “(iii) not more than 25 percent of the
18 value of its total assets is represented by
19 nonqualified publicly offered REIT debt in-
20 struments, and”.

21 (4) DEFINITIONS RELATED TO DEBT INSTRU-
22 MENTS OF PUBLICLY OFFERED REITS.—Paragraph
23 (5) of section 856(c), as amended by the preceding
24 provisions of this Act, is amended by adding at the
25 end the following new subparagraph:

1 “(K) DEFINITIONS RELATED TO DEBT IN-
2 STRUMENTS OF PUBLICLY OFFERED REITS.—

3 “(i) PUBLICLY OFFERED REIT.—The
4 term ‘publicly offered REIT’ has the
5 meaning given such term by section
6 562(c)(3).

7 “(ii) NONQUALIFIED PUBLICLY OF-
8 FERED REIT DEBT INSTRUMENT.—The
9 term ‘nonqualified publicly offered REIT
10 debt instrument’ means any real estate
11 asset which would cease to be a real estate
12 asset if subparagraph (B) were applied
13 without regard to the reference to ‘debt in-
14 struments issued by publicly offered
15 REITs’.”.

16 (b) INTERESTS IN MORTGAGES ON INTERESTS IN
17 REAL PROPERTY TREATED AS REAL ESTATE ASSETS.—
18 Subparagraph (B) of section 856(c)(5) is amended by in-
19 serting “or on interests in real property” after “interests
20 in mortgages on real property”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2014.

1 **SEC. 3641. ASSET AND INCOME TEST CLARIFICATION RE-**
2 **GARDING ANCILLARY PERSONAL PROPERTY.**

3 (a) IN GENERAL.—Subsection (c) of section 856 is
4 amended by adding at the end the following new para-
5 graph:

6 “(9) SPECIAL RULES FOR CERTAIN PERSONAL
7 PROPERTY WHICH IS ANCILLARY TO REAL PROP-
8 ERTY.—

9 “(A) CERTAIN PERSONAL PROPERTY
10 LEASED IN CONNECTION WITH REAL PROP-
11 ERTY.—Personal property shall be treated as a
12 real estate asset for purposes of paragraph
13 (4)(A) to the extent that rents attributable to
14 such personal property are treated as rents
15 from real property under subsection (d)(1)(C).

16 “(B) CERTAIN PERSONAL PROPERTY
17 MORTGAGED IN CONNECTION WITH REAL PROP-
18 ERTY.—In the case of an obligation secured by
19 a mortgage on both real property and personal
20 property, if the fair market value of such per-
21 sonal property does not exceed 15 percent of
22 the total fair market value of all such property,
23 such personal property shall be treated as real
24 property for purposes of applying paragraphs
25 (3)(B) and (4)(A). For purposes of the pre-
26 ceding sentence, the fair market value of all

1 such property shall be determined in the same
2 manner as the fair market value of real prop-
3 erty is determined for purposes of apportioning
4 interest income between real property and per-
5 sonal property under paragraph (3)(B).”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2014.

9 **SEC. 3642. HEDGING PROVISIONS.**

10 (a) MODIFICATION TO PERMIT THE TERMINATION
11 OF A HEDGING TRANSACTION USING AN ADDITIONAL
12 HEDGING INSTRUMENT.—Subparagraph (G) of section
13 856(c)(5) is amended by striking “and” at the end of
14 clause (i), by striking the period at the end of clause (ii)
15 and inserting “, and”, and by adding at the end the fol-
16 lowing new clause:

17 “(iii) if—

18 “(I) a real estate investment
19 trust enters into one or more positions
20 described in clause (i) with respect to
21 indebtedness described in clause (i) or
22 one or more positions described in
23 clause (ii) with respect to property
24 which generates income or gain de-
25 scribed in paragraph (2) or (3),

1 “(II) any portion of such indebt-
2 edness is extinguished or any portion
3 of such property is disposed of, and
4 “(III) in connection with such ex-
5 tinguishment or disposition, such
6 trust enters into one or more trans-
7 actions which would be hedging trans-
8 actions described in subparagraph (B)
9 or (C) of section 1221(b)(2) with re-
10 spect to any position referred to in
11 subclause (I) if such position were or-
12 dinary property,
13 any income of such trust from any position
14 referred to in subclause (I) and from any
15 transaction referred to in subclause (III)
16 (including gain from the termination of
17 any such position or transaction) shall not
18 constitute gross income under paragraphs
19 (2) and (3) to the extent that such trans-
20 action hedges such position.”.

21 (b) IDENTIFICATION REQUIREMENTS.—

22 (1) IN GENERAL.—Subparagraph (G) of section
23 856(e)(5), as amended by subsection (a), is amended
24 by striking “and” at the end of clause (ii), by strik-
25 ing the period at the end of clause (iii) and inserting

1 “, and”, and by adding at the end the following new
2 clause:

3 “(iv) clauses (i), (ii), and (iii) shall
4 not apply with respect to any transaction
5 unless such transaction satisfies the identi-
6 fication requirement described in section
7 1221(b)(3)(A) (determined after taking
8 into account any curative provisions pro-
9 vided under the regulations referred to
10 therein).”.

11 (2) CONFORMING AMENDMENTS.—Subpara-
12 graph (G) of section 856(e)(5) is amended—

13 (A) by striking “which is clearly identified
14 pursuant to section 1221(a)(7)” in clause (i),
15 and

16 (B) by striking “, but only if such trans-
17 action is clearly identified as such before the
18 close of the day on which it was acquired, origi-
19 nated, or entered into (or such other time as
20 the Secretary may prescribe)” in clause (ii).

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2014.

1 **SEC. 3643. MODIFICATION OF REIT EARNINGS AND PROF-**
2 **ITS CALCULATION TO AVOID DUPLICATE TAX-**
3 **ATION.**

4 (a) EARNINGS AND PROFITS NOT INCREASED BY
5 AMOUNTS ALLOWED IN COMPUTING TAXABLE INCOME IN
6 PRIOR YEARS.—

7 (1) IN GENERAL.—Paragraph (1) of section
8 857(d) is amended to read as follows:

9 “(1) IN GENERAL.—The earnings and profits of
10 a real estate investment trust for any taxable year
11 (but not its accumulated earnings) shall not be re-
12 duced by any amount which—

13 “(A) is not allowable in computing its tax-
14 able income for such taxable year, and

15 “(B) was not allowable in computing its
16 taxable income for any prior taxable year.”.

17 (2) EXCEPTION FOR PURPOSES OF DETER-
18 MINING DIVIDENDS PAID DEDUCTION.—Paragraph
19 (1) of section 562(e), as amended by the preceding
20 provisions of this Act, is amended—

21 (A) by striking “deduction, the earnings”
22 and inserting the following: “deduction—

23 “(A) the earnings”,

24 (B) by striking the period at the end and
25 inserting “, and”, and

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

3 “(B) section 857(d)(1) shall be applied
4 without regard to subparagraph (B) thereof.”.

5 (3) CONFORMING AMENDMENTS.—Subsection
6 (d) of section 857 is amended by adding at the end
7 the following new paragraphs:

8 “(4) REAL ESTATE INVESTMENT TRUST.—For
9 purposes of this subsection, the term ‘real estate in-
10 vestment trust’ includes a domestic corporation,
11 trust, or association which is a real estate invest-
12 ment trust determined without regard to the require-
13 ments of subsection (a).

14 “(5) SPECIAL RULES FOR DETERMINING EARN-
15 INGS AND PROFITS FOR PURPOSES OF THE DEDUC-
16 TION FOR DIVIDENDS PAID.—For special rules for
17 determining the earnings and profits of a real estate
18 investment trust for purposes of the deduction for
19 dividends paid, see section 562(e)(1).”.

20 (b) TREATMENT OF GAIN ON SALES OF REAL PROP-
21 erty.—Subparagraph (A) of section 562(e)(1), as amend-
22 ed by the preceding provisions of this Act, is amended to
23 read as follows:

24 “(A) the earnings and profits of such trust
25 for any taxable year (but not its accumulated

1 earnings) shall be increased by the amount of
2 gain (if any) on the sale or exchange of real
3 property which is taken into account in deter-
4 mining the taxable income of such trust for
5 such taxable year (and not otherwise taken into
6 account in determining such earnings and prof-
7 its), and”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2014.

11 **SEC. 3644. REDUCTION IN PERCENTAGE LIMITATION ON AS-**
12 **SETS OF REIT WHICH MAY BE TAXABLE REIT**
13 **SUBSIDIARIES.**

14 (a) IN GENERAL.—Section 856(c)(4)(B)(ii) is
15 amended by striking “25 percent” and inserting “20 per-
16 cent”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2016.

20 **SEC. 3645. TREATMENT OF CERTAIN SERVICES PROVIDED**
21 **BY TAXABLE REIT SUBSIDIARIES.**

22 (a) TAXABLE REIT SUBSIDIARIES TREATED IN
23 SAME MANNER AS INDEPENDENT CONTRACTORS FOR
24 CERTAIN PURPOSES.—

1 (1) MARKETING AND DEVELOPMENT EXPENSES
2 UNDER RENTAL PROPERTY SAFE HARBOR.—Clause
3 (v) of section 857(b)(6)(C) is amended by inserting
4 “or by a taxable REIT subsidiary” before the period
5 at the end.

6 (2) FORECLOSURE PROPERTY GRACE PERIOD.—
7 Subparagraph (C) of section 856(e)(4) is amended
8 by inserting “or through a taxable REIT subsidiary”
9 after “receive any income”.

10 (b) TAX ON REDETERMINED TRS SERVICE IN-
11 COME.—

12 (1) IN GENERAL.—Subparagraph (A) of section
13 857(b)(7) is amended by striking “and excess inter-
14 est” and inserting “excess interest, and redeter-
15 mined TRS service income”.

16 (2) REDETERMINED TRS SERVICE INCOME.—
17 Paragraph (7) of section 857(b) is amended by re-
18 designating subparagraphs (E) and (F) as subpara-
19 graphs (F) and (G), respectively, and inserting after
20 subparagraph (D) the following new subparagraph:

21 “(E) REDETERMINED TRS SERVICE IN-
22 COME.—

23 “(i) IN GENERAL.—The term ‘redeter-
24 mined TRS service income’ means gross
25 income of a taxable REIT subsidiary of a

1 real estate investment trust attributable to
2 services provided to, or on behalf of, such
3 trust (less deductions properly allocable
4 thereto) to the extent the amount of such
5 income (less such deductions) would (but
6 for subparagraph (F)) be increased on dis-
7 tribution, apportionment, or allocation
8 under section 482.

9 “(ii) COORDINATION WITH REDETER-
10 MINED RENTS.—Clause (i) shall not apply
11 with respect to gross income attributable
12 to services furnished or rendered to a ten-
13 ant of the real estate investment trust (or
14 to deductions properly allocable thereto).”.

15 (3) CONFORMING AMENDMENTS.—Subpara-
16 graphs (B)(i) and (C) of section 857(b)(7) are each
17 amended by striking “subparagraph (E)” and insert-
18 ing “subparagraph (F)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2014.

22 **SEC. 3646. STUDY RELATING TO TAXABLE REIT SUBSIDI-**
23 **ARIES.**

24 The Secretary of the Treasury (or the Secretary’s
25 designee) shall, biannually—

- 1 (1) conduct a study to determine—
2 (A) how many taxable REIT subsidiaries
3 are in existence and the aggregate amount of
4 taxes paid by such subsidiaries, and
5 (B) the amount by which transactions be-
6 tween a REIT and a taxable REIT subsidiary
7 reduce taxable income of the taxable REIT sub-
8 sidiary (whether or not such transactions are
9 conducted at arms length), and
10 (2) submit a report to the Committee on Ways
11 and Means of the House of Representatives and the
12 Committee on Finance of the Senate describing the
13 results of such study.

14 **SEC. 3647. C CORPORATION ELECTION TO BECOME, OR**
15 **TRANSFER ASSETS TO, A RIC OR REIT.**

16 (a) IN GENERAL.—Part IV of subchapter O of chap-
17 ter 1, as amended by the preceding provisions of this Act,
18 is amended by redesignating section 1062 as section 1063
19 and by inserting after section 1061 the following new sec-
20 tion:

1 **“SEC. 1062. RECOGNITION OF GAIN OR LOSS UPON C COR-**
2 **PORATION ELECTION TO BECOME, OR TRANS-**
3 **FER ASSETS TO, A REGULATED INVESTMENT**
4 **COMPANY OR A REAL ESTATE INVESTMENT**
5 **TRUST.**

6 “(a) IN GENERAL.—If a C corporation elects to be-
7 come a regulated investment company or a real estate in-
8 vestment trust for a taxable year, such corporation shall
9 recognize gain or loss as if all its assets were sold by such
10 corporation at their fair market value immediately before
11 the close of the last taxable year before such corporation
12 becomes a regulated investment company or real estate in-
13 vestment trust (as the case may be).

14 “(b) APPLICATION TO TRANSFERS OF ASSETS.—In
15 the case of a C corporation which transfers to a regulated
16 investment company or a real estate investment trust one
17 or more assets the basis of which is determined (in whole
18 or in part) by reference to the basis of such asset or assets
19 in the hands of the C corporation, such corporation shall
20 recognize gain or loss as if such assets were sold by such
21 corporation at their fair market value as of the end of
22 the day before the day of the transfer.

23 “(c) NONAPPLICATION TO NET LOSS.—Subsections
24 (a) and (b) shall not apply if their application would result
25 in the recognition of a net loss. For purposes of the pre-
26 ceding sentence, the term ‘net loss’ means the excess of

1 aggregate losses over aggregate gains (including items of
2 income) without regard to character.

3 “(d) BASIS ADJUSTMENT.—If any asset is treated as
4 sold under subsection (a) or (b), the basis of such asset
5 immediately after such deemed sale shall be equal to the
6 fair market value of such asset as determined under such
7 subsection.

8 “(e) C CORPORATION.—For purposes of this section,
9 the term ‘C corporation’ does not include a regulated in-
10 vestment company or a real estate investment trust.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for part IV of subchapter O of chapter 1 is amended by
13 redesignating the item relating to section 1062 as an item
14 relating to section 1063 and by inserting after the item
15 relating to section 1061 the following new item:

“Sec. 1062. Recognition of gain or loss upon C corporation election to become,
or transfer assets to, a regulated investment company or a real
estate investment trust.”.

16 (c) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to elections and transfers on or
18 after February 26, 2014.

19 **SEC. 3648. INTERESTS IN RICS AND REITS NOT EXCLUDED**
20 **FROM DEFINITION OF UNITED STATES REAL**
21 **PROPERTY INTERESTS.**

22 (a) IN GENERAL.—Section 897(c)(1)(B) is amended
23 by striking “and” at the end of clause (i), by striking the

1 period at the end of clause (ii)(II) and inserting “, and”,
2 and by adding at the end the following new clause:

3 “(iii) neither such corporation nor any
4 predecessor of such corporation was a reg-
5 ulated investment company or a real estate
6 investment company at any time during
7 the period described in subparagraph
8 (A)(ii).”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to dispositions after December 31,
11 2014.

12 **SEC. 3649. DIVIDENDS DERIVED FROM RICS AND REITS IN-**
13 **ELIGIBLE FOR DEDUCTION FOR UNITED**
14 **STATES SOURCE PORTION OF DIVIDENDS**
15 **FROM CERTAIN FOREIGN CORPORATIONS.**

16 (a) IN GENERAL.—Section 245(a) is amended by
17 adding at the end the following new paragraph:

18 “(12) DIVIDENDS DERIVED FROM RICS AND
19 REITS INELIGIBLE FOR DEDUCTION.—Regulated in-
20 vestment companies and real estate investment
21 trusts shall not be treated as domestic corporations
22 for purposes of paragraph (5)(B).”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to dividends received from regu-

1 lated investment companies and real estate investment
2 trusts on or after February 26, 2014.

3 **PART 4—PERSONAL HOLDING COMPANIES**

4 **SEC. 3661. EXCLUSION OF DIVIDENDS FROM CONTROLLED**
5 **FOREIGN CORPORATIONS FROM THE DEFINI-**
6 **TION OF PERSONAL HOLDING COMPANY IN-**
7 **COME FOR PURPOSES OF THE PERSONAL**
8 **HOLDING COMPANY RULES.**

9 (a) IN GENERAL.—Paragraph (1) of section 543(a)
10 is amended—

11 (1) by redesignating subparagraphs (C) and
12 (D) as subparagraphs (D) and (E), respectively, and

13 (2) by inserting after subparagraph (B) the fol-
14 lowing:

15 “(C) dividends received by a United States
16 shareholder (as defined in section 951(b)) from
17 a controlled foreign corporation (as defined in
18 section 957(a)),”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this Act shall apply to taxable years beginning after De-
21 cember 31, 2014.

1 **Subtitle H—Taxation of Foreign**
2 **Persons**

3 **SEC. 3701. PREVENTION OF AVOIDANCE OF TAX THROUGH**
4 **REINSURANCE WITH NON-TAXED AFFILIATES.**

5 (a) IN GENERAL.—Part III of subchapter L of chap-
6 ter 1 is amended by adding at the end the following new
7 section:

8 **“SEC. 849. SPECIAL RULES FOR REINSURANCE OF NON-**
9 **LIFE CONTRACTS WITH NON-TAXED AFFILI-**
10 **ATES.**

11 “(a) IN GENERAL.—The taxable income under sec-
12 tion 831(a) or the life insurance company taxable income
13 under section 801(b) (as the case may be) of an insurance
14 company shall be determined by not taking into account—

15 “(1) any non-taxed reinsurance premium,

16 “(2) any additional amount paid by such insur-
17 ance company with respect to the reinsurance for
18 which such non-taxed reinsurance premium is paid,
19 to the extent such additional amount is properly al-
20 locable to such non-taxed reinsurance premium, and

21 “(3) any return premium, ceding commission,
22 reinsurance recovered, or other amount received by
23 such insurance company with respect to the reinsur-
24 ance for which such non-taxed reinsurance premium
25 is paid, to the extent such return premium, ceding

1 commission, reinsurance recovered, or other amount
2 is properly allocable to such non-taxed reinsurance
3 premium.

4 “(b) NON-TAXED REINSURANCE PREMIUMS.—For
5 purposes of this section—

6 “(1) IN GENERAL.—The term ‘non-taxed rein-
7 surance premium’ means any reinsurance premium
8 paid directly or indirectly to an affiliated corporation
9 with respect to reinsurance of risks (other than ex-
10 cepted risks), to the extent that the income attrib-
11 utable to the premium is not subject to tax under
12 this subtitle (either as the income of the affiliated
13 corporation or as amounts included in gross income
14 by a United States shareholder under section 951).

15 “(2) EXCEPTED RISKS.—The term ‘excepted
16 risks’ means any risk with respect to which reserves
17 described in section 816(b)(1) are established.

18 “(c) AFFILIATED CORPORATIONS.—For purposes of
19 this section, a corporation shall be treated as affiliated
20 with an insurance company if both corporations would be
21 members of the same controlled group of corporations (as
22 defined in section 1563(a)) if section 1563 were applied—

23 “(1) by substituting ‘at least 50 percent’ for ‘at
24 least 80 percent’ each place it appears in subsection
25 (a)(1), and

1 “(2) without regard to subsections (a)(4),
2 (b)(2)(C), (b)(2)(D), and (e)(3)(C).

3 “(d) ELECTION TO TREAT REINSURANCE INCOME AS
4 EFFECTIVELY CONNECTED.—

5 “(1) IN GENERAL.—A specified affiliated cor-
6 poration may elect for any taxable year to treat
7 specified reinsurance income as—

8 “(A) income effectively connected with the
9 conduct of a trade or business in the United
10 States, and

11 “(B) for purposes of any treaty between
12 the United States and any foreign country, in-
13 come attributable to a permanent establishment
14 in the United States.

15 “(2) EFFECT OF ELECTION.—In the case of
16 any specified reinsurance income with respect to
17 which the election under this subsection applies—

18 “(A) DEDUCTION ALLOWED FOR REINSUR-
19 ANCE PREMIUMS.—For exemption from sub-
20 section (a), see definition of non-taxed reinsur-
21 ance premiums in subsection (b).

22 “(B) EXCEPTION FROM EXCISE TAX.—The
23 tax imposed by section 4371 shall not apply
24 with respect to any income treated as effectively

1 connected with the conduct of a trade or busi-
2 ness in the United States under paragraph (1).

3 “(C) TAXATION UNDER THIS SUB-
4 CHAPTER.—Such income shall be subject to tax
5 under this subchapter to the same extent and
6 in the same manner as if such income were the
7 income of a domestic insurance company.

8 “(D) COORDINATION WITH FOREIGN TAX
9 CREDIT PROVISIONS.—For purposes of subpart
10 A of part III of subchapter N and sections 78
11 and 960—

12 “(i) such specified reinsurance income
13 shall be treated as derived from sources
14 without the United States, and

15 “(ii) subsections (a), (b), and (c) of
16 section 904 ,and section 960, shall be ap-
17 plied separately with respect to each item
18 of such income.

19 The Secretary may issue regulations or other
20 guidance which provide that related items of
21 specified reinsurance income may be aggregated
22 for purposes of applying clause (ii).

23 “(3) SPECIFIED AFFILIATED CORPORATION.—
24 For purposes of this subsection, the term ‘specified
25 affiliated corporation’ means any affiliated corpora-

1 tion which is a foreign corporation and which meets
2 such requirements as the Secretary shall prescribe to
3 ensure that tax on the specified reinsurance income
4 of such corporation is properly determined and paid.

5 “(4) SPECIFIED REINSURANCE INCOME.—For
6 purposes of this paragraph, the term ‘specified rein-
7 surance income’ means all income of a specified af-
8 filiated corporation which is attributable to reinsur-
9 ance with respect to which subsection (a) would (but
10 for the election under this subsection) apply.

11 “(5) RULES RELATED TO ELECTION.—Any
12 election under paragraph (1) shall—

13 “(A) be made at such time and in such
14 form and manner as the Secretary may provide,
15 and

16 “(B) apply for the taxable year for which
17 made and all subsequent taxable years unless
18 revoked with the consent of the Secretary.

19 “(e) EXCEPTION FOR AMOUNTS SUBJECT TO FOR-
20 EIGN TAX.—An amount shall not be treated as described
21 in paragraph (1), (2), or (3) of subsection (a) if the tax-
22 payer demonstrates to the satisfaction of the Secretary
23 that such amount was subject to an effective rate of in-
24 come tax imposed by a foreign country which is not less

1 than 100 percent of the maximum rate of tax specified
2 in section 11.

3 “(f) REGULATIONS.—The Secretary shall prescribe
4 such regulations or other guidance as may be appropriate
5 to carry out, or to prevent the avoidance of the purposes
6 of, this section, including regulations or other guidance
7 which provide for the application of this section to alter-
8 native reinsurance transactions, fronting transactions,
9 conduit and reciprocal transactions, and any economically
10 equivalent transactions.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for part III of subchapter L of chapter 1 is amended by
13 adding at the end the following new item:

“Sec. 849. Special rules for reinsurance of non-life contracts with non-taxed af-
filiates.”.

14 (c) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to taxable years beginning after
16 December 31, 2014.

17 **SEC. 3702. TAXATION OF PASSENGER CRUISE GROSS IN-**
18 **COME OF FOREIGN CORPORATIONS AND**
19 **NONRESIDENT ALIEN INDIVIDUALS.**

20 (a) IN GENERAL.—Section 882 is amended by redес-
21 ignating subsection (f) as subsection (g) and by inserting
22 after subsection (e) the following new subsection:

23 “(f) TREATMENT OF PASSENGER CRUISE GROSS IN-
24 COME.—

1 “(1) IN GENERAL.—For purposes of this title,
2 the effectively connected passenger cruise gross in-
3 come of a foreign corporation shall be treated as
4 gross income which is effectively connected with the
5 conduct of a trade or business in the United States.

6 “(2) EFFECTIVELY CONNECTED PASSENGER
7 CRUISE GROSS INCOME.—For purposes of this sub-
8 section, the term ‘effectively connected passenger
9 cruise gross income’ means, with respect to the oper-
10 ation of any ship in a covered voyage, the United
11 States territorial waters percentage of the gross in-
12 come (determined without regard to section
13 883(a)(1)) derived from such operation, including
14 any amount received with respect to the provision of
15 any on- or off-board activities, services, or sales,
16 with respect to passengers incidental to such oper-
17 ation (or with respect to any agreement with any
18 person with respect to the provision of any such ac-
19 tivities, services, or sales).

20 “(3) UNITED STATES TERRITORIAL WATERS
21 PERCENTAGE.—For purposes of this subsection—

22 “(A) IN GENERAL.—The term ‘United
23 States territorial waters percentage’ means,
24 with respect to the operation of any ship in any

1 covered voyage, the ratio (expressed as a per-
2 centage) of—

3 “(i) the number of days during such
4 voyage such ship was operated in the terri-
5 torial waters of the United States, divided
6 by

7 “(ii) the total number of days of such
8 voyage.

9 “(B) CALENDAR DAY RULE.—If a ship—

10 “(i) is operated in a covered voyage,
11 or

12 “(ii) is operated in the territorial wa-
13 ters of the United States during a covered
14 voyage,

15 for any portion of a calendar day, such ship
16 shall be treated as having operated in a covered
17 voyage, or as having operated in such territorial
18 waters, respectively, for the entirety of such
19 day.

20 “(C) TERRITORIAL WATERS.—The terri-
21 torial waters of the United States shall be
22 treated as consisting of those waters which
23 are—

1 “(i) within the international boundary
2 line between the United States and any
3 contiguous foreign country, or

4 “(ii) within 12 nautical miles from low
5 tide on the coastline of the United States.

6 “(4) COVERED VOYAGE.—For purposes of this
7 subsection—

8 “(A) IN GENERAL.—The term ‘covered
9 voyage’ has the meaning given such term by
10 section 4472(1).

11 “(B) ANTI-ABUSE RULE.—Except as oth-
12 erwise provided by the Secretary, if passengers
13 embark a ship in the United States and more
14 than 10 percent of such passengers disembark
15 in the United States, the operation of such ship
16 at all times between such events shall be treat-
17 ed as a covered voyage. Nothing in the pre-
18 ceding sentence shall preclude any operation of
19 a ship (including any operation of a ship before
20 or after such events) which would otherwise be
21 treated as part of a covered voyage from being
22 so treated.

23 “(5) TREATMENT OF OTHERWISE EFFECTIVELY
24 CONNECTED INCOME.—Gross income which would,
25 without regard to this subsection, be gross income

1 which is effectively connected with the conduct of a
2 trade or business in the United States—

3 “(A) shall be so treated, and

4 “(B) shall not be taken into account as
5 gross income under paragraph (2).”.

6 (b) APPLICATION TO NONRESIDENT ALIEN INDIVID-
7 UALS.—Section 871 is amended by redesignating sub-
8 section (n) as subsection (o) and by inserting after sub-
9 section (m) the following new subsection:

10 “(n) TREATMENT OF PASSENGER CRUISE GROSS IN-
11 COME.—

12 “(1) IN GENERAL.—For purposes of this title,
13 the effectively connected passenger cruise gross in-
14 come of a nonresident alien individual shall be treat-
15 ed as gross income which is effectively connected
16 with the conduct of a trade or business in the
17 United States.

18 “(2) DEFINITIONS AND SPECIAL RULES.—For
19 purposes of this subsection—

20 “(A) DEFINITIONS.—Terms used in this
21 subsection which are also used in section 882(f)
22 shall have the same meaning as when used in
23 such section, except that section 882(f)(2) shall
24 be applied by substituting ‘section 872(b)(1)’
25 for ‘section 883(a)(1)’.

1 “(B) TREATMENT OF OTHERWISE EFFEC-
2 TIVELY CONNECTED INCOME.—Rules similar to
3 the rules of section 882(f)(5) shall apply for
4 purposes of this subsection.”.

5 (c) COORDINATION WITH RECIPROCAL EXEMPTIONS
6 FOR SHIPPING INCOME.—

7 (1) IN GENERAL.—Section 883(a)(1) is amend-
8 ed by striking “Gross income” and inserting “Ex-
9 cept as provided in section 882(f), gross income”.

10 (2) NONRESIDENT ALIEN INDIVIDUALS.—Sec-
11 tion 872(b)(1) is amended by striking “Gross in-
12 come” and inserting “Except as provided in section
13 871(n), gross income”.

14 (d) COORDINATION WITH TAX ON GROSS TRANSPOR-
15 TATION INCOME.—Section 887(b)(4) is amended by add-
16 ing at the end the following new flush text:

17 “The preceding sentence shall not apply to any
18 United States source gross transportation income
19 which is effectively connected passenger cruise gross
20 income (within the meaning of section 871(n) or
21 882(f)).”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2014.

1 **SEC. 3703. RESTRICTION ON INSURANCE BUSINESS EXCEP-**
2 **TION TO PASSIVE FOREIGN INVESTMENT**
3 **COMPANY RULES.**

4 (a) IN GENERAL.—Section 1297(b)(2)(B) is amend-
5 ed to read as follows:

6 “(B) derived in the active conduct of an in-
7 surance business by a corporation if—

8 “(i) such corporation would be subject
9 to tax under subchapter L if such corpora-
10 tion were a domestic corporation,

11 “(ii) more than 50 percent of such
12 corporation’s gross receipts for the taxable
13 year consist of premiums, and

14 “(iii) the applicable insurance liabil-
15 ities of such corporation constitute more
16 than 35 percent of its total assets as re-
17 ported on the corporation’s applicable fi-
18 nancial statement for the year with which
19 or in which the taxable year ends.”.

20 (b) APPLICABLE INSURANCE LIABILITIES; APPLICA-
21 BLE FINANCIAL STATEMENT.—

22 (1) IN GENERAL.—Section 1297(b) is amended
23 by adding at the end the following new paragraph:

24 “(3) DEFINITIONS.—For purposes of this sub-
25 section—

1 “(A) APPLICABLE INSURANCE LIABIL-
2 ITIES.—The term ‘applicable insurance liabil-
3 ities’ means, with respect to any life or property
4 and casualty insurance business—

5 “(i) loss and loss adjustment ex-
6 penses,

7 “(ii) unearned premiums, and

8 “(iii) reserves (other than deficiency
9 or contingency reserves) for life and health
10 insurance risks and life and health insur-
11 ance claims with respect to contracts pro-
12 viding coverage for mortality or morbidity
13 risks (not to exceed the amount of such re-
14 serve that is required to be reported to the
15 home country insurance regulatory body).

16 “(B) APPLICABLE FINANCIAL STATE-
17 MENT.—The term ‘applicable financial state-
18 ment’ means a statement for financial reporting
19 purposes which—

20 “(i) is made on the basis of generally
21 accepted accounting principles,

22 “(ii) is made on the basis of inter-
23 national financial reporting standards, but
24 only if there is no statement that meets
25 the requirement of clause (i), or

1 “(iii) except as otherwise provided by
2 the Secretary in regulations, is the annual
3 statement which is required to be filed
4 with the home country insurance regu-
5 latory body, but only if there is no state-
6 ment which meets the requirements of
7 clause (i) or (ii).”.

8 (2) CONFORMING AMENDMENT.—Section
9 1297(b) is amended—

10 (A) by striking the last sentence in para-
11 graph (2) thereof, and

12 (B) by adding at the end of paragraph (3)
13 thereof (as added by paragraph (1)), the fol-
14 lowing new subparagraph:

15 “(C) RELATED PERSON.—The term ‘re-
16 lated person’ has the meaning given such term
17 by section 954(d)(3) determined by substituting
18 ‘foreign corporation’ for ‘controlled foreign cor-
19 poration’ each place it appears therein.”.

20 (c) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years beginning after
22 December 31, 2014.

1 **SEC. 3704. MODIFICATION OF LIMITATION ON EARNINGS**

2 **STRIPPING.**

3 (a) IN GENERAL.—Section 163(j)(2)(B)(i)(II) is
4 amended by striking “50 percent” and inserting “40 per-
5 cent”.

6 (b) NO NEW EXCESS LIMITATION
7 CARRYFORWARDS.—Section 163(j)(2)(B)(ii) is amended
8 by striking “for any taxable year” and inserting “for any
9 taxable year beginning before January 1, 2015”.

10 (c) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 December 31, 2014.

13 **SEC. 3705. LIMITATION ON TREATY BENEFITS FOR CERTAIN**

14 **DEDUCTIBLE PAYMENTS.**

15 (a) IN GENERAL.—Section 894 of the Internal Rev-
16 enue Code of 1986 (relating to income affected by treaty)
17 is amended by adding at the end the following new sub-
18 section:

19 “(d) LIMITATION ON TREATY BENEFITS FOR CER-
20 TAIN DEDUCTIBLE PAYMENTS.—

21 “(1) IN GENERAL.—In the case of any deduct-
22 ible related-party payment, any withholding tax im-
23 posed under chapter 3 (and any tax imposed under
24 subpart A or B of this part) with respect to such
25 payment may not be reduced under any treaty of the
26 United States unless any such withholding tax would

1 be reduced under a treaty of the United States if
2 such payment were made directly to the foreign par-
3 ent corporation.

4 “(2) DEDUCTIBLE RELATED-PARTY PAY-
5 MENT.—For purposes of this subsection, the term
6 ‘deductible related-party payment’ means any pay-
7 ment made, directly or indirectly, by any person to
8 any other person if the payment is allowable as a de-
9 duction under this chapter and both persons are
10 members of the same foreign controlled group of en-
11 tities.

12 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
13 TIES.—For purposes of this subsection—

14 “(A) IN GENERAL.—The term ‘foreign
15 controlled group of entities’ means a controlled
16 group of entities the common parent of which
17 is a foreign corporation.

18 “(B) CONTROLLED GROUP OF ENTITIES.—
19 The term ‘controlled group of entities’ means a
20 controlled group of corporations as defined in
21 section 1563(a)(1), except that—

22 “(i) ‘more than 50 percent’ shall be
23 substituted for ‘at least 80 percent’ each
24 place it appears therein, and

1 “(ii) the determination shall be made
2 without regard to subsections (a)(4) and
3 (b)(2) of section 1563.

4 A partnership or any other entity (other than a
5 corporation) shall be treated as a member of a
6 controlled group of entities if such entity is con-
7 trolled (within the meaning of section
8 954(d)(3)) by members of such group (includ-
9 ing any entity treated as a member of such
10 group by reason of this sentence).

11 “(4) FOREIGN PARENT CORPORATION.—For
12 purposes of this subsection, the term ‘foreign parent
13 corporation’ means, with respect to any deductible
14 related-party payment, the common parent of the
15 foreign controlled group of entities referred to in
16 paragraph (3)(A).

17 “(5) REGULATIONS.—The Secretary may pre-
18 scribe such regulations or other guidance as are nec-
19 essary or appropriate to carry out the purposes of
20 this subsection, including regulations or other guid-
21 ance which provide for—

22 “(A) the treatment of two or more persons
23 as members of a foreign controlled group of en-
24 tities if such persons would be the common par-

1 ent of such group if treated as one corporation,
2 and

3 “(B) the treatment of any member of a
4 foreign controlled group of entities as the com-
5 mon parent of such group if such treatment is
6 appropriate taking into account the economic
7 relationships among such entities.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to payments made after the date
10 of the enactment of this Act.

11 **Subtitle I—Provisions Related to** 12 **Compensation**

13 **PART 1—EXECUTIVE COMPENSATION**

14 **SEC. 3801. NONQUALIFIED DEFERRED COMPENSATION.**

15 (a) IN GENERAL.—Subpart A of part I of subchapter
16 D of chapter 1 is amended by adding at the end the fol-
17 lowing new section:

18 **“SEC. 409B. NONQUALIFIED DEFERRED COMPENSATION.**

19 “(a) IN GENERAL.—Any compensation which is de-
20 ferred under a nonqualified deferred compensation plan
21 shall be includible in gross income when there is no sub-
22 stantial risk of forfeiture of the rights to such compensa-
23 tion.

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

1 “(1) SUBSTANTIAL RISK OF FORFEITURE.—The
2 rights of a person to compensation shall be treated
3 as subject to a substantial risk of forfeiture only if
4 such person’s rights to such compensation are condi-
5 tioned upon the future performance of substantial
6 services by any individual.

7 “(2) NONQUALIFIED DEFERRED COMPENSA-
8 TION PLAN.—For purposes of this section:

9 “(A) NONQUALIFIED DEFERRED COM-
10 PENSATION PLAN.—The term ‘nonqualified de-
11 ferred compensation plan’ means any plan that
12 provides for the deferral of compensation, other
13 than—

14 “(i) a qualified employer plan,

15 “(ii) any bona fide vacation leave, sick
16 leave, compensatory time, disability pay, or
17 death benefit plan, and

18 “(iii) any other plan or arrangement
19 designated by the Secretary consistent with
20 the purposes of this section.

21 “(B) EQUITY-BASED COMPENSATION.—
22 The term ‘nonqualified deferred compensation
23 plan’ shall include any plan that provides a
24 right to compensation based on the appreciation

1 in value of a specified number of equity units
2 of the service recipient or stock options.

3 “(3) QUALIFIED EMPLOYER PLAN.—The term
4 ‘qualified employer plan’ means any plan, contract,
5 pension, account, or trust described in
6 408(p)(2)(D)(ii).

7 “(4) PLAN INCLUDES ARRANGEMENTS, ETC.—
8 The term ‘plan’ includes any agreement or arrange-
9 ment, including an agreement or arrangement that
10 includes one person.

11 “(5) EXCEPTION.—Compensation shall not be
12 treated as deferred for purposes of this section if the
13 service provider receives payment of such compensa-
14 tion not later than 6 months after the end of the
15 taxable year of the service recipient during which the
16 right to the payment of such compensation is no
17 longer subject to a substantial risk of forfeiture.

18 “(6) TREATMENT OF EARNINGS.—References to
19 deferred compensation shall be treated as including
20 references to income (whether actual or notional) at-
21 tributable to such compensation or such income.

22 “(7) AGGREGATION RULES.—Except as pro-
23 vided by the Secretary, rules similar to the rules of
24 subsections (b) and (c) of section 414 shall apply.

1 “(c) NO INFERENCE ON EARLIER INCOME INCLU-
2 SION OR REQUIREMENT OF LATER INCLUSION.—Nothing
3 in this section shall be construed to prevent the inclusion
4 of amounts in gross income under any other provision of
5 this chapter or any other rule of law earlier than the time
6 provided in this section. Any amount included in gross in-
7 come under this section shall not be required to be in-
8 cluded in gross income under any other provision of this
9 chapter or any other rule of law later than the time pro-
10 vided in this section.

11 “(d) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary or appropriate to
13 carry out the purposes of this section, including regula-
14 tions disregarding a substantial risk of forfeiture in cases
15 where necessary to carry out the purposes of this sec-
16 tion.”.

17 (b) TERMINATION OF CERTAIN OTHER NON-
18 QUALIFIED DEFERRED COMPENSATION RULES.—

19 (1) NONQUALIFIED DEFERRED COMPENSA-
20 TION.—

21 (A) IN GENERAL.—Subpart A of part I of
22 subchapter D of chapter 1 is amended by strik-
23 ing section 409A (and by striking the item re-
24 lating to such section in the table of sections
25 for such subpart).

1 (B) CONFORMING AMENDMENTS.—

2 (i) Section 26(b)(2) is amended by
3 striking subparagraph (V).

4 (ii) Section 3401(a) is amended by
5 striking the flush sentence at the end.

6 (iii) Section 6041 is amended by
7 striking subsection (g).

8 (iv) Section 6051(a), as amended by
9 the preceding provisions of this Act, is
10 amended by striking paragraph (12), by
11 inserting “and” at the end of paragraph
12 (11), and by redesignating paragraph (13)
13 as paragraph (12).

14 (2) 457(b) PLANS OF TAX EXEMPT ORGANIZA-
15 TIONS.—Section 457 is amended by adding at the
16 end the following new subsection:

17 “(h) TERMINATION OF CERTAIN PLANS.—

18 “(1) TAX-EXEMPT ORGANIZATION PLANS.—
19 This section shall not apply to amounts deferred
20 which are attributable to services performed after
21 December 31, 2014, under a plan maintained by an
22 employer described in subsection (e)(1)(B).

23 “(2) INELIGIBLE DEFERRED COMPENSATION
24 PLANS.—Subsection (f) shall not apply to amounts

1 deferred which are attributable to services performed
2 after December 31, 2014.”.

3 (3) NONQUALIFIED DEFERRED COMPENSATION
4 FROM CERTAIN TAX INDIFFERENT PARTIES.—

5 (A) IN GENERAL.—Subpart B of part II of
6 subchapter E of chapter 1 is amended by strik-
7 ing section 457A (and by striking the item re-
8 lating to such section in the table of sections
9 for such subpart).

10 (B) CONFORMING AMENDMENT.—Section
11 26(b)(2) is amended by striking subparagraph
12 (X).

13 (c) CLERICAL AMENDMENT.—The table of sections
14 for part I of subchapter D of chapter 1 is amended by
15 adding at the end the following new item:

“Sec. 409B. Nonqualified deferred compensation.”.

16 (d) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection, the amendments made by
19 this section shall apply to amounts which are attrib-
20 utable to services performed after December 31,
21 2014.

22 (2) APPLICATION TO EXISTING DEFERRALS.—

23 In the case of any amount deferred to which the
24 amendments made by this section do not apply solely
25 by reason of the fact that the amount is attributable

1 to services performed before January 1, 2015, to the
2 extent such amount is not includible in gross income
3 in a taxable year beginning before 2023, such
4 amounts shall be includible in gross income in the
5 later of—

6 (A) the last taxable year beginning before
7 2023, or

8 (B) the taxable year in which there is no
9 substantial risk of forfeiture of the rights to
10 such compensation (determined in the same
11 manner as determined for purposes of section
12 409B of the Internal Revenue Code of 1986, as
13 added by this section).

14 (3) ACCELERATED PAYMENTS.—No later than
15 120 days after the date of the enactment of this Act,
16 the Secretary shall issue guidance providing a lim-
17 ited period of time during which a nonqualified de-
18 ferred compensation arrangement attributable to
19 services performed on or before December 31, 2014,
20 may, without violating the requirements of section
21 409A of the Internal Revenue Code of 1986, be
22 amended to conform the date of distribution to the
23 date the amounts are required to be included in in-
24 come.

1 (4) CERTAIN BACK-TO-BACK ARRANGEMENTS.—
2 If the taxpayer is also a service recipient and main-
3 tains one or more nonqualified deferred compensa-
4 tion arrangements for its service providers under
5 which any amount is attributable to services per-
6 formed on or before December 31, 2014, the guid-
7 ance issued under paragraph (3) shall permit such
8 arrangements to be amended to conform the dates of
9 distribution under such arrangement to the date
10 amounts are required to be included in the income
11 of such taxpayer under this subsection.

12 (5) ACCELERATED PAYMENT NOT TREATED AS
13 MATERIAL MODIFICATION.—Any amendment to a
14 nonqualified deferred compensation arrangement
15 made pursuant to paragraph (3) or (4) shall not be
16 treated as a material modification of the arrange-
17 ment for purposes of section 409A of the Internal
18 Revenue Code of 1986.

19 **SEC. 3802. MODIFICATION OF LIMITATION ON EXCESSIVE**
20 **EMPLOYEE REMUNERATION.**

21 (a) REPEAL OF PERFORMANCE-BASED COMPENSA-
22 TION AND COMMISSION EXCEPTIONS FOR LIMITATION ON
23 EXCESSIVE EMPLOYEE REMUNERATION.—

24 (1) IN GENERAL.—Paragraph (4) of section
25 162(m) is amended by striking subparagraphs (B)

1 and (C) and by redesignating subparagraphs (D),
2 (E), (F), and (G) as subparagraphs (B), (C), (D),
3 and (E), respectively.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Paragraphs (5)(E) and (6)(D) of sec-
6 tion 162(m) are each amended by striking
7 “subparagraphs (B), (C), and (D)” and insert-
8 ing “subparagraph (B)”.

9 (B) Paragraphs (5)(G) and (6)(G) of sec-
10 tion 162(m) are each amended by striking “(F)
11 and (G)” and inserting “(D) and (E)”.

12 (b) MODIFICATION OF DEFINITION OF COVERED EM-
13 PLOYEES.—Paragraph (3) of section 162(m) is amend-
14 ed—

15 (1) in subparagraph (A), by striking “as of the
16 close of the taxable year, such employee is the chief
17 executive officer of the taxpayer or is” and inserting
18 “such employee is the chief executive officer or the
19 chief financial officer of the taxpayer at any time
20 during the taxable year, or was”,

21 (2) in subparagraph (B)—

22 (A) by striking “4” and inserting “3”, and

23 (B) by striking “(other than the chief execu-
24 tive officer)” and inserting “(other than any
25 individual described in subparagraph (A))”, and

1 (3) by striking “or” at the end of subparagraph
2 (A), by striking the period at the end of subpara-
3 graph (B) and inserting “, or”, and by adding at the
4 end the following:

5 “(C) was a covered employee of the tax-
6 payer (or any predecessor) for any preceding
7 taxable year beginning after December 31,
8 2013.”.

9 (c) SPECIAL RULE FOR REMUNERATION PAID TO
10 BENEFICIARIES, ETC.—Paragraph (4) of section 162(m),
11 as amended by subsection (a), is amended by adding at
12 the end the following new subparagraph:

13 “(F) SPECIAL RULE FOR REMUNERATION
14 PAID TO BENEFICIARIES, ETC.—Remuneration
15 shall not fail to be applicable employee remun-
16 eration merely because it is includible in the
17 income of, or paid to, a person other than the
18 covered employee, including after the death of
19 the covered employee.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2014.

1 **SEC. 3803. EXCISE TAX ON EXCESS TAX-EXEMPT ORGANIZA-**
2 **TION EXECUTIVE COMPENSATION.**

3 (a) IN GENERAL.—Subchapter D of chapter 42 is
4 amended by adding at the end the following new section:

5 **“SEC. 4960. TAX ON EXCESS TAX-EXEMPT ORGANIZATION**
6 **EXECUTIVE COMPENSATION.**

7 “(a) TAX IMPOSED.—There is hereby imposed a tax
8 equal to 25 percent of the sum of—

9 “(1) so much of the remuneration paid (other
10 than any excess parachute payment) by an applica-
11 ble tax-exempt organization for the taxable year with
12 respect to employment of any covered employee in
13 excess of \$1,000,000, plus

14 “(2) any excess parachute payment paid by
15 such an organization to any covered employee.

16 “(b) LIABILITY FOR TAX.—The employer shall be lia-
17 ble for the tax imposed under subsection (a).

18 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
19 poses of this section—

20 “(1) APPLICABLE TAX-EXEMPT ORGANIZA-
21 TION.—The term ‘applicable tax-exempt organiza-
22 tion’ means any organization that for the taxable
23 year—

24 “(A) is exempt from taxation under section
25 501(a),

1 “(B) is a farmers’ cooperative organization
2 described in section 521(b)(1), or

3 “(C) has income excluded from taxation
4 under section 115(1).

5 “(2) COVERED EMPLOYEE.—For purposes of
6 this section, the term ‘covered employee’ means any
7 employee (including any former employee) of an ap-
8 plicable tax-exempt organization if the employee—

9 “(A) is one of the 5 highest compensated
10 employees of the organization for the taxable
11 year, or

12 “(B) was a covered employee of the organi-
13 zation (or any predecessor) for any preceding
14 taxable year beginning after December 31,
15 2013.

16 “(3) REMUNERATION.—For purposes of this
17 section, the term ‘remuneration’ means wages (as
18 defined in section 3401(a)), except that such term
19 shall not include any designated Roth contribution
20 (as defined in section 402A(c)).

21 “(4) REMUNERATION FROM RELATED ORGANI-
22 ZATIONS.—

23 “(A) IN GENERAL.—Remuneration of a
24 covered employee by an applicable tax-exempt
25 organization shall include any remuneration

1 paid with respect to employment of such em-
2 ployee by any related person or governmental
3 entity.

4 “(B) RELATED ORGANIZATIONS.—A per-
5 son or governmental entity shall be treated as
6 related to an applicable tax-exempt organization
7 if such person or governmental entity—

8 “(i) controls, or is controlled by, the
9 organization,

10 “(ii) is controlled by one or more per-
11 sons that control the organization,

12 “(iii) is a supported organization (as
13 defined in section 509(f)(2)) during the
14 taxable year with respect to the organiza-
15 tion,

16 “(iv) is a supporting organization de-
17 scribed in section 509(a)(3) during the
18 taxable year with respect to the organiza-
19 tion, or

20 “(v) in the case of an organization
21 that is a voluntary employees’ beneficiary
22 association described in section 501(a)(9),
23 establishes, maintains, or makes contribu-
24 tions to such voluntary employees’ bene-
25 ficiary association.

1 “(C) LIABILITY FOR TAX.—In any case in
2 which remuneration from more than one em-
3 ployer is taken into account under this para-
4 graph in determining the tax imposed by sub-
5 section (a), each such employer shall be liable
6 for such tax in an amount which bears the
7 same ratio to the total tax determined under
8 subsection (a) with respect to such remunera-
9 tion as—

10 “(i) the amount of remuneration paid
11 by such employer with respect to such em-
12 ployee, bears to

13 “(ii) the amount of remuneration paid
14 by all such employers to such employee.

15 “(5) EXCESS PARACHUTE PAYMENT.—For pur-
16 poses determining the tax imposed by subsection
17 (a)(2)—

18 “(A) IN GENERAL.—The term ‘excess
19 parachute payment’ means an amount equal to
20 the excess of any parachute payment over the
21 portion of the base amount allocated to such
22 payment.

23 “(B) PARACHUTE PAYMENT.—The term
24 ‘parachute payment’ means any payment in the

1 nature of compensation to (or for the benefit
2 of) a covered employee if—

3 “(i) such payment is contingent on
4 such employee’s separation from employ-
5 ment with the employer, and

6 “(ii) the aggregate present value of
7 the payments in the nature of compensa-
8 tion to (or for the benefit of) such indi-
9 vidual which are contingent on such separa-
10 tion equals or exceeds an amount equal
11 to 3 times the base amount.

12 Such term does not include any payment de-
13 scribed in section 280G(b)(6) (relating to ex-
14 emption for payments under qualified plans) or
15 any payment made under or to an annuity con-
16 tract described in section 403(b) or a plan de-
17 scribed in section 457(b).

18 “(C) BASE AMOUNT.—Rules similar to the
19 rules of 280G(b)(3) shall apply for purposes of
20 determining the base amount.

21 “(D) PROPERTY TRANSFERS; PRESENT
22 VALUE.—Rules similar to the rules of para-
23 graphs (3) and (4) of section 280G(d) shall
24 apply.

1 “(6) COORDINATION WITH DEDUCTION LIMITA-
2 TION.—Remuneration the deduction for which is not
3 allowed by reason of section 162(m) shall not be
4 taken into account for purposes of this section.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for subchapter D of chapter 42 is amended by adding at
7 the end the following new item:

 “Sec. 4960. Tax on excess exempt organization executive compensation.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2014.

11 **SEC. 3804. DENIAL OF DEDUCTION AS RESEARCH EXPENDI-**
12 **TURE FOR STOCK TRANSFERRED PURSUANT**
13 **TO AN INCENTIVE STOCK OPTION.**

14 (a) IN GENERAL.—Paragraph (2) of section 421(a)
15 is amended by striking “under section 162 (relating to
16 trade or business expenses)”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to stock transferred on or after
19 February 26, 2014.

20 **PART 2—WORKER CLASSIFICATION**

21 **SEC. 3811. DETERMINATION OF WORKER CLASSIFICATION.**

22 (a) IN GENERAL.—Chapter 79, as amended by the
23 preceding provisions of this Act, is amended by adding at
24 the end the following new section:

1 **“SEC. 7707. DETERMINATION OF WORKER CLASSIFICATION.**

2 “(a) IN GENERAL.—For purposes of this title (and
3 notwithstanding any provision of this title not contained
4 in this section to the contrary), if the requirements of sub-
5 sections (b), (c), and (d) are met with respect to any serv-
6 ice performed by a service provider, then with respect to
7 such service—

8 “(1) the service provider shall not be treated as
9 an employee,

10 “(2) the service recipient shall not be treated as
11 an employer,

12 “(3) any payor shall not be treated as an em-
13 ployer, and

14 “(4) the compensation paid or received for such
15 service shall not be treated as paid or received with
16 respect to employment.

17 “(b) GENERAL SERVICE PROVIDER REQUIRE-
18 MENTS.—

19 “(1) IN GENERAL.—The requirements of this
20 subsection are met with respect to any service if the
21 service provider either—

22 “(A) meets the requirements of paragraph
23 (2) with respect to such service, or

24 “(B) in the case a service provider engaged
25 in the trade or business of selling (or soliciting
26 the sale of) goods or services, meets the re-

1 requirements of paragraph (3) with respect to
2 such service.

3 “(2) GENERAL REQUIREMENTS.—The require-
4 ments of this paragraph are met with respect to any
5 service if the service provider, in connection with
6 performing the service—

7 “(A) incurs significant unreimbursed ex-
8 penses,

9 “(B) agrees to perform the service for a
10 particular amount of time, to achieve a specific
11 result, or to complete a specific task,

12 “(C) is primarily compensated on a basis
13 not tied to the number of hours worked, and

14 “(D) at least one of the following:

15 “(i) has a significant investment in
16 assets or training,

17 “(ii) is not required to perform serv-
18 ices exclusively for the service recipient, or

19 “(iii) has not performed services for
20 the service recipient as an employee during
21 the 1-year period ending with the date of
22 the commencement of services under the
23 contract described in subsection (d).

24 “(3) ALTERNATIVE REQUIREMENTS WITH RE-
25 SPECT TO SALES PERSONS.—In the case of a service

1 provider engaged in the trade or business of selling
2 (or soliciting the sale of) goods or services, the re-
3 quirements of this paragraph are met with respect
4 to any service provided in the ordinary course of
5 such trade or business if—

6 “(A) the service provider is compensated
7 primarily on a commission basis, and

8 “(B) substantially all the compensation for
9 such service is directly related to sales of goods
10 or services rather than to the number of hours
11 worked.

12 “(c) PLACE OF BUSINESS OR OWN EQUIPMENT RE-
13 QUIREMENT.—The requirement of this subsection is met
14 with respect to any service if the service provider—

15 “(1) has a principal place of business,

16 “(2) does not primarily provide the service in
17 the service recipient’s place of business,

18 “(3) pays a fair market rent for use of the serv-
19 ice recipient’s place of business, or

20 “(4) provides the service primarily using equip-
21 ment supplied by the service provider.

22 “(d) WRITTEN CONTRACT REQUIREMENT.—The re-
23 quirements of this subsection are met with respect to any
24 service if such service is performed pursuant to a written

1 contract between the service provider and the service re-
2 cipient (or payor) which meets the following requirements:

3 “(1) The contract includes each of the fol-
4 lowing:

5 “(A) The service provider’s name, taxpayer
6 identification number, and address.

7 “(B) A statement that the service provider
8 will not be treated as an employee with respect
9 to the services provided pursuant to the con-
10 tract for purposes of this title.

11 “(C) A statement that the service recipient
12 (or the payor) will withhold upon and report to
13 the Internal Revenue Service the compensation
14 payable pursuant to the contract consistent
15 with the requirements of this title.

16 “(D) A statement that the service provider
17 is responsible for payment of Federal, State,
18 and local taxes, including self-employment
19 taxes, on compensation payable pursuant to the
20 contract.

21 “(E) A statement that the contract is in-
22 tended to be considered a contract described in
23 this subsection.

24 “(2) The term of the contract does not exceed
25 1 year. The preceding sentence shall not prevent one

1 or more subsequent written renewals of the contract
2 from satisfying the requirements of this subsection
3 if the term of each such renewal does not exceed 1
4 year and if the information required under para-
5 graph (1)(A) is updated in connection with each
6 such renewal.

7 “(3) The contract (or renewal) is signed by
8 both the service recipient (or payor) and the service
9 provider not later than the date on which the aggre-
10 gate payments made by the service recipient to the
11 service provider exceeds \$600 for the year covered
12 by the contract (or renewal).

13 “(e) REPORTING REQUIREMENTS.—If any service re-
14 cipient or payor fails to meet the applicable reporting re-
15 quirements of section 6041(a) or 6041A(a) for any taxable
16 year with respect to any service provider, this section shall
17 not apply for purposes of making any determination with
18 respect to the liability of such service recipient or payor
19 for any tax with respect to such service provider for such
20 period. For purposes of the preceding sentence, such re-
21 porting requirements shall be treated as met if the failure
22 to satisfy such requirements is due to reasonable cause
23 and not willful neglect.

24 “(f) EXCEPTION FOR SERVICES PROVIDED BY
25 OWNER.—This section shall not apply with respect to any

1 service provided by a service provider to a service recipient
2 if the service provider owns any interest in the service re-
3 cipient or any payor with respect to the service provided.
4 The preceding sentence shall not apply in the case of a
5 service recipient the stock of which is regularly traded on
6 an established securities market.

7 “(g) EXCEPTION FOR SERVICES NOT RECEIVED IN
8 COURSE OF A TRADE OR BUSINESS.—This section shall
9 not apply with respect to any service unless such service
10 is performed in the ordinary course of a trade or business
11 of the service recipient.

12 “(h) LIMITATION ON RECLASSIFICATION BY SEC-
13 RETARY.—For purposes of this title—

14 “(1) EFFECT OF RECLASSIFICATION ON RECIPI-
15 ENTS AND PAYORS.—A determination by the Sec-
16 retary that a service recipient or a payor should
17 have treated a service provider as an employee shall
18 be effective with respect to the service recipient or
19 payor no earlier than the notice date if—

20 “(A) the service recipient or the payor en-
21 tered into a written contract with the service
22 provider which meets the requirements of sub-
23 section (d),

24 “(B) the service recipient or the payor sat-
25 isfied the applicable reporting requirements of

1 section 6041(a) or 6041A(a) for all relevant
2 taxable years with respect to the service pro-
3 vider,

4 “(C) the service recipient or the payor col-
5 lected and paid over all applicable taxes im-
6 posed under subtitle C for all relevant taxable
7 years with respect to the service provider,

8 “(D) the service recipient or the payor
9 demonstrates a reasonable basis for having de-
10 termined that the service provider should not be
11 treated as an employee under this section and
12 that such determination was made in good
13 faith.

14 “(2) EFFECT OF RECLASSIFICATION ON SERV-
15 ICE PROVIDERS.—A determination by the Secretary
16 that a service provider should have been treated as
17 an employee shall be effective with respect to the
18 service provider no earlier than the notice date if—

19 “(A) the service provider entered into a
20 written contract with the service recipient or
21 payor which meets the requirements of sub-
22 section (d),

23 “(B) the service provider satisfied the ap-
24 plicable reporting requirements of sections
25 6012(a) and 6017 for all relevant taxable years

1 with respect to the service recipient or payor,
2 and

3 “(C) the service provider demonstrates a
4 reasonable basis for determining that the serv-
5 ice provider is not an employee under this sec-
6 tion and that such determination was made in
7 good faith.

8 “(3) NOTICE DATE.—For purposes of this sub-
9 section, the term ‘notice date’ means the 30th day
10 after the earliest of—

11 “(A) the date on which the first letter of
12 proposed deficiency which allows the service
13 provider, the service recipient, or the payor an
14 opportunity for administrative review in the In-
15 ternal Revenue Service Office of Appeals is
16 sent,

17 “(B) the date on which a deficiency notice
18 under section 6212 is sent, or

19 “(C) the date on which a notice of deter-
20 mination under section 7436(b)(2) is sent.

21 “(4) REASONABLE CAUSE EXCEPTION.—The re-
22 quirements of paragraphs (1)(B) and (2)(B) shall be
23 treated as met if the failure to satisfy such require-
24 ments is due to reasonable cause and not willful ne-
25 glect.

1 “(5) NO RESTRICTION ON ADMINISTRATIVE OR
2 JUDICIAL REVIEW.—Nothing in this subsection shall
3 be construed as limiting any provision of law which
4 provides an opportunity for administrative or judi-
5 cial review of a determination by the Secretary.
6 “(i) DEFINITIONS.—For purposes of this section—
7 “(1) SERVICE PROVIDER.—
8 “(A) IN GENERAL.—The term ‘service pro-
9 vider’ means any qualified person who performs
10 service for another person.
11 “(B) QUALIFIED PERSON.—The term
12 ‘qualified person’ means—
13 “(i) any natural person, and
14 “(ii) any entity if any of the services
15 referred to in subparagraph (A) are per-
16 formed by one or more natural persons
17 who directly own interests in such entity.
18 “(2) SERVICE RECIPIENT.—The term ‘service
19 recipient’ means the person for whom the service
20 provider performs such service.
21 “(3) PAYOR.—The term ‘payor’ means any per-
22 son who pays the service provider for performing
23 such service.
24 “(j) REGULATIONS.—Notwithstanding section 530(d)
25 of the Revenue Act of 1978, the Secretary shall issue such

1 regulations as the Secretary determines are necessary to
2 carry out the purposes of this section.”.

3 (b) WITHHOLDING BY PAYOR IN CASE OF CERTAIN
4 PERSONS CLASSIFIED AS NOT EMPLOYEES.—Section
5 3402 is amended by redesignating subsection (s) as sub-
6 section (t) and inserting after subsection (r) the following
7 new subsection:

8 “(s) EXTENSION OF WITHHOLDING TO PAYMENTS
9 TO CERTAIN PERSONS CLASSIFIED AS NOT EMPLOY-
10 EES.—

11 “(1) IN GENERAL.—For purposes of this chap-
12 ter and so much of subtitle F as relates to this chap-
13 ter, compensation paid pursuant to a contract de-
14 scribed in section 7707(d) shall be treated as if it
15 were a payment of wages by an employer to an em-
16 ployee.

17 “(2) AMOUNT WITHHELD.—Except as otherwise
18 provided under subsection (i), the amount to be de-
19 ducted and withheld pursuant to paragraph (1) with
20 respect to compensation paid pursuant to any such
21 contract during any calendar year shall be an
22 amount equal to 5 percent of so much of the amount
23 of such compensation as does not exceed \$10,000.”.

24 (c) REPORTING.—Section 6041A is amended by add-
25 ing at the end the following new subsection:

1 “(g) SPECIAL RULES FOR CERTAIN PERSONS CLAS-
2 SIFIED AS NOT EMPLOYEES.—In the case of any service
3 recipient required to make a return under subsection (a)
4 with respect to compensation to which section 7707(a) ap-
5 plies—
6 “(1) such return shall include—
7 “(A) the aggregate amount of such com-
8 pensation paid to each person whose name is
9 required to be included on such return,
10 “(B) the aggregate amount deducted and
11 withheld under section 3402(s) with respect to
12 such compensation, and
13 “(C) an indication of whether a copy of the
14 contract described in section 7707(d) is on file
15 with the service recipient or payor, and
16 “(2) the statement required to be furnished
17 under subsection (e) shall include the information
18 described in paragraph (1) with respect to the serv-
19 ice provider to whom such statement is furnished.
20 Terms used in this subsection which are also used in sec-
21 tion 7707 shall have the same meaning as when used in
22 such section.”.

23 (d) CLERICAL AMENDMENT.—The table of sections
24 for chapter 79, as amended by the preceding provisions

1 of this Act, is amended by adding at the end the following
2 new item:

“Sec. 7707. Determination of worker classification.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to services performed after Decem-
5 ber 31, 2014 (and to payments made for such services
6 after such date).

7 **Subtitle J—Zones and Short-Term**
8 **Regional Benefits**

9 **SEC. 3821. REPEAL OF PROVISIONS RELATING TO EM-**
10 **POWERMENT ZONES AND ENTERPRISE COM-**
11 **MUNITIES.**

12 (a) IN GENERAL.—Chapter 1 is amended by striking
13 subchapter U (and by striking the item relating to such
14 subchapter in the table of subchapters for such chapter).

15 (b) CONFORMING AMENDMENTS.—

16 (1)(A) Section 38(b) is amended by striking
17 paragraph (9).

18 (B) Section 280C(a) is amended by striking
19 “1396(a)”.

20 (2) Section 179(e) is amended by striking para-
21 graph (3) and by redesignating paragraph (4) as
22 paragraph (3).

23 (3) Section 1202(a)(2)(A) is amended by insert-
24 ing “(as in effect before its repeal by the Tax Re-
25 form Act of 2014)” after “section 1397C(b)”.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendment made by
4 this section shall take effect on the date of the en-
5 actment of this Act.

6 (2) ROLLOVERS.—So much of subsection (a) as
7 relates to the repeal of section 1397B of the Internal
8 Revenue Code of 1986 shall apply to sales after the
9 date of the enactment of this Act.

10 (3) SAVINGS PROVISION.—The amendments
11 made by this section shall not apply to obligations
12 described in section 1394 of the Internal Revenue
13 Code of 1986 (as in effect before its repeal) which
14 were issued before January 1, 2014.

15 **SEC. 3822. REPEAL OF DC ZONE PROVISIONS.**

16 (a) IN GENERAL.—Chapter 1 is amended by striking
17 subchapter W (and by striking the item relating to such
18 subchapter in the table of subchapters for such chapter).

19 (b) CONFORMING AMENDMENTS.—

20 (1)(A) Section 1202(a)(2)(B) is amended by in-
21 serting “(as in effect before its repeal by the Tax
22 Reform Act of 2014)” after “1400B(b)”.

23 (2) Section 25(e)(1)(C) is amended by striking
24 “sections 23, 25D, and 1400C” and inserting “sec-
25 tion 23”.

1 (3) Section 1016(a) is amended by striking
2 paragraph (27).

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in paragraph (2), the amendments made by
6 this section shall take effect on the date of the en-
7 actment of this Act.

8 (2) SAVINGS PROVISION.—The amendments
9 made by this section shall not apply to—

10 (A) in the case of the repeal of section
11 1400A of the Internal Revenue Code of 1986,
12 obligations described in section 1394 of such
13 Code (as in effect before its repeal) which were
14 issued before January 1, 2012,

15 (B) in the case of the repeal of section
16 1400B of such Code, DC Zone assets (as de-
17 fined in such section, as in effect before its re-
18 peal) which were acquired by the taxpayer be-
19 fore January 1, 2012, and

20 (C) in the case of the repeal of section
21 1400C of such Code, principal residences ac-
22 quired before January 1, 2012.

1 **SEC. 3823. REPEAL OF PROVISIONS RELATING TO RE-**
2 **NEWAL COMMUNITIES.**

3 (a) IN GENERAL.—Chapter 1 is amended by striking
4 subchapter X (and by striking the item relating to such
5 subchapter in the table of subchapters for such chapter).

6 (b) CONFORMING AMENDMENTS.—

7 (1)(A) Section 469(i)(3), as amended by the
8 preceding provisions of this Act, is amended by
9 striking subparagraph (C) and by redesignating sub-
10 paragraphs (D), (E), and (F) as subparagraphs (B),
11 (C), and (D).

12 (B) Section 469(i)(3)(C), as so redesignated, is
13 amended to read as follows:

14 “(C) ORDERING RULE.—If subparagraph
15 (B) applies for a taxable year, paragraph (1)
16 shall be applied—

17 “(i) first to the portion of the passive
18 activity loss to which such subparagraph
19 does not apply, and

20 “(ii) then to the portion of such loss
21 to which such subparagraph does apply.”.

22 (C) Section 469(i)(6)(B), as amended by the
23 preceding provisions of this Act, is amended—

24 (i) by striking “COMMERCIAL REVITALIZA-
25 TION DEDUCTION” in the heading,

- 1 (ii) by striking “in the case of—” and all
2 that follows through “any credit” in clause (i),
3 (iii) by striking “year, or” in clause (i) and
4 inserting “year.”, and
5 (iv) by striking clause (iii).

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the amendments made by this section
9 shall take effect on the date of the enactment of this
10 Act.

11 (2) SAVINGS PROVISION.—The amendments
12 made by this section shall not apply to—

13 (A) in the case of the repeal of section
14 1400F of the Internal Revenue Code of 1986,
15 qualified community assets (as defined in such
16 section, as in effect before its repeal) which
17 were acquired by the taxpayer before January
18 1, 2010,

19 (B) in the case of the repeal section
20 1400H of such Code, wages paid or incurred
21 before January 1, 2010,

22 (C) in the case of the repeal of section
23 1400I of such Code, qualified revitalization
24 buildings (as defined in such section, as in ef-

1 fect before its repeal) which were placed in
2 service before January 1, 2010, and

3 (D) in the case of the repeal of section
4 1400J of such Code, property acquired before
5 January 1, 2010.

6 **SEC. 3824. REPEAL OF VARIOUS SHORT-TERM REGIONAL**
7 **BENEFITS.**

8 (a) IN GENERAL.—Chapter 1 is amended by striking
9 subchapter Y (and by striking the item relating to such
10 subchapter in the table of subchapters for such chapter).

11 (b) CONFORMING AMENDMENTS.—Section 38(b) is
12 amended by striking paragraphs (27), (28), (29) and (30).

13 (c) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall take effect on the date of the enactment of this
17 Act.

18 (2) SAVINGS PROVISION.—The amendments
19 made by this section shall not apply to—

20 (A) in the case of the repeal of section
21 1400L(a) of the Internal Revenue Code of
22 1986, qualified wages (as defined in such sec-
23 tion, as in effect before its repeal) which were
24 paid or incurred before January 1, 2004,

1 (B) in the case of the repeal of subsections
2 (b) and (f) of section 1400L of such Code,
3 qualified New York Liberty Zone property (as
4 defined in section 1400L(b) of such Code, as in
5 effect before its repeal) placed in service before
6 January 1, 2010,

7 (C) in the case of the repeal of section
8 1400L(c) of such Code, qualified New York
9 Liberty Zone leasehold improvement property
10 (as defined in such section, as in effect before
11 its repeal) placed in service before January 1,
12 2007,

13 (D) in the case of the repeal of section
14 1400L(d) of such Code, qualified New York
15 Liberty bonds (as defined in such section, as in
16 effect before its repeal) issued before January
17 1, 2014,

18 (E) in the case of the repeal of section
19 1400L(e) of such Code, advanced refundings
20 before January 1, 2006,

21 (F) in the case of the repeal of section
22 1400L(g) of such Code, property which is
23 compulsorily or involuntarily converted as a re-
24 sult of the terrorist attacks on September 11,
25 2001,

1 (G) in the case of the repeal of section
2 1400N(a) of such Code, obligations issued be-
3 fore January 1, 2012,

4 (H) in the case of the repeal of section
5 1400N(b) of such Code, advanced refundings
6 before January 1, 2011,

7 (I) in the case of the repeal of section
8 1400N(d) of such Code, property placed in
9 service before January 1, 2012,

10 (J) in the case of the repeal of section
11 1400N(e) of such Code, property placed in serv-
12 ice before January 1, 2009,

13 (K) in the case of the repeal of subsections
14 (f) and (g) of section 1400N of such Code,
15 amounts paid or incurred before January 1,
16 2008,

17 (L) in the case of the repeal of section
18 1400N(h) of such Code, amounts paid or in-
19 curred before January 1, 2012,

20 (M) in the case of the repeal of section
21 1400N(l) of such Code, bonds issued before
22 January 1, 2007,

23 (N) in the case of the repeal of section
24 1400Q(a) of such Code, distributions before
25 January 1, 2007,

1 (O) in the case of the repeal of section
2 1400Q(b) of such Code, contributions before
3 March 1, 2006,

4 (P) in the case of the repeal of section
5 1400Q(c) of such Code, loans made before Jan-
6 uary 1, 2007,

7 (Q) in the case of the repeal of section
8 1400R of such Code, wages paid or incurred be-
9 fore January 1, 2006,

10 (R) in the case of the repeal of section
11 1400S(a) of such Code, contributions paid be-
12 fore January 1, 2006,

13 (S) in the case of the repeal of section
14 1400T of such Code, financing provided before
15 January 1, 2011, and

16 (T) in the case of the repeal of part III of
17 subchapter Y of chapter 1 of such Code, obliga-
18 tions issued before January 1, 2011.

1 **TITLE IV—PARTICIPATION EX-**
2 **EMPTION SYSTEM FOR THE**
3 **TAXATION OF FOREIGN IN-**
4 **COME**

5 **Subtitle A—Establishment of**
6 **Exemption System**

7 **SEC. 4001. DEDUCTION FOR DIVIDENDS RECEIVED BY DO-**
8 **MESTIC CORPORATIONS FROM CERTAIN FOR-**
9 **EIGN CORPORATIONS.**

10 (a) IN GENERAL.—Part VIII of subchapter B of
11 chapter 1 is amended by inserting after section 245 the
12 following new section:

13 **“SEC. 245A. DIVIDENDS RECEIVED BY DOMESTIC CORPORA-**
14 **TIONS FROM CERTAIN FOREIGN CORPORA-**
15 **TIONS.**

16 “(a) IN GENERAL.—In the case of any dividend re-
17 ceived from a specified 10-percent owned foreign corpora-
18 tion by a domestic corporation which is a United States
19 shareholder with respect to such foreign corporation, there
20 shall be allowed as a deduction an amount equal to 95
21 percent of the foreign-source portion of such dividend.

22 “(b) SPECIFIED 10-PERCENT OWNED FOREIGN COR-
23 PORATION.—For purposes of this section, the term ‘speci-
24 fied 10-percent owned foreign corporation’ means any for-
25 eign corporation if any domestic corporation owns directly,

1 or indirectly through a chain of ownership described under
2 section 958(a), 10 percent or more of the voting stock of
3 such foreign corporation.

4 “(c) FOREIGN-SOURCE PORTION.—For purposes of
5 this section—

6 “(1) IN GENERAL.—The foreign-source portion
7 of any dividend is an amount which bears the same
8 ratio to such dividends as—

9 “(A) the post-1986 undistributed foreign
10 earnings, bears to

11 “(B) the total post-1986 undistributed
12 earnings.

13 “(2) POST-1986 UNDISTRIBUTED EARNINGS.—
14 The term ‘post-1986 undistributed earnings’ means
15 the amount of the earnings and profits of the speci-
16 fied 10-percent owned foreign corporation (computed
17 in accordance with sections 964(a) and 986) accu-
18 mulated in taxable years beginning after December
19 31, 1986—

20 “(A) as of the close of the taxable year of
21 the specified 10-percent owned foreign corpora-
22 tion in which the dividend is distributed, and

23 “(B) without diminution by reason of divi-
24 dends distributed during such taxable year.

1 “(3) POST-1986 UNDISTRIBUTED FOREIGN
2 EARNINGS.—The term ‘post-1986 undistributed for-
3 eign earnings’ means the portion of the post-1986
4 undistributed earnings which is attributable to nei-
5 ther—

6 “(A) income described in subparagraph (A)
7 of section 245(a)(5), nor

8 “(B) dividends described in subparagraph
9 (B) of such section (determined without regard
10 to section 245(a)(12)).

11 “(4) TREATMENT OF DISTRIBUTIONS FROM
12 EARNINGS BEFORE 1987.—

13 “(A) IN GENERAL.—In the case of any div-
14 idend paid out of earnings and profits of the
15 specified 10-percent owned foreign corporation
16 (computed in accordance with sections 964(a)
17 and 986) accumulated in taxable years begin-
18 ning before January 1, 1987—

19 “(i) paragraphs (1), (2), and (3) shall
20 be applied without regard to the phrase
21 ‘post-1986’ each place it appears, and

22 “(ii) paragraph (2) shall be applied
23 without regard to the phrase ‘in taxable
24 years beginning after December 31, 1986’.

1 “(B) DIVIDENDS PAID FIRST OUT OF
2 POST-1986 EARNINGS.—Dividends shall be treat-
3 ed as paid out of post-1986 undistributed earn-
4 ings to the extent thereof.

5 “(d) DISALLOWANCE OF FOREIGN TAX CREDIT,
6 ETC.—

7 “(1) IN GENERAL.—No credit shall be allowed
8 under section 901 for any taxes paid or accrued (or
9 treated as paid or accrued) with respect to any divi-
10 dend for which a deduction is allowed under this sec-
11 tion.

12 “(2) DENIAL OF DEDUCTION.—No deduction
13 shall be allowed under this chapter for any tax for
14 which credit is not allowable under section 901 by
15 reason of paragraph (1) (determined by treating the
16 taxpayer as having elected the benefits of subpart A
17 of part III of subchapter N).

18 “(e) REGULATIONS.—The Secretary may prescribe
19 such regulations or other guidance as may be necessary
20 or appropriate to carry out the provisions of this section.”.

21 (b) APPLICATION OF HOLDING PERIOD REQUIRE-
22 MENT.—Subsection (c) of section 246 is amended—

23 (1) by striking “or 245” in paragraph (1) and
24 inserting “245, or 245A”, and

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

3 “(5) SPECIAL RULES FOR FOREIGN SOURCE
4 PORTION OF DIVIDENDS RECEIVED FROM SPECIFIED
5 10-PERCENT OWNED FOREIGN CORPORATIONS.—

6 “(A) 6-MONTH HOLDING PERIOD REQUIRE-
7 MENT.—For purposes of section 245A—

8 “(i) paragraph (1)(A) shall be ap-
9 plied—

10 “(I) by substituting ‘180 days’
11 for ‘45 days’ each place it appears, and

12 “(II) by substituting ‘361-day pe-
13 riod’ for ‘91-day period’, and

14 “(ii) paragraph (2) shall not apply.

15 “(B) STATUS MUST BE MAINTAINED DUR-
16 ING HOLDING PERIOD.—For purposes of section
17 245A, the holding period requirement of this
18 subsection shall be treated as met only if—

19 “(i) the specified 10-percent owned
20 corporation referred to in section 245A(a)
21 is a specified 10-percent owned corporation
22 at all times during such period, and

23 “(ii) the taxpayer is a United States
24 shareholder with respect to such specified

1 10-percent owned corporation at all times
2 during such period.”.

3 (c) APPLICATION OF RULES GENERALLY APPLICA-
4 BLE TO DEDUCTIONS FOR DIVIDENDS RECEIVED.—

5 (1) TREATMENT OF DIVIDENDS FROM CERTAIN
6 CORPORATIONS.—Paragraph (1) of section 246(a) is
7 amended by striking “and 245” and inserting “245,
8 and 245A”.

9 (2) ASSETS GENERATING TAX-EXEMPT PORTION
10 OF DIVIDEND NOT TAKEN INTO ACCOUNT IN ALLO-
11 CATING AND APPORTIONING DEDUCTIBLE EX-
12 PENSES.—Paragraph (3) of section 864(e) is amend-
13 ed by striking “or 245(a)” and inserting “, 245(a),
14 or 245A”.

15 (3) COORDINATION WITH SECTION 1059.—Sub-
16 paragraph (B) of section 1059(b)(2) is amended by
17 striking “or 245” and inserting “245, or 245A”.

18 (d) COORDINATION WITH FOREIGN TAX CREDIT
19 LIMITATION.—Subsection (b) of section 904, as amended
20 by the preceding provisions of this Act, is amended by re-
21 designating paragraph (2) as paragraph (1) and by adding
22 at the end the following new paragraph:

23 “(2) TREATMENT OF DIVIDENDS FOR WHICH
24 DEDUCTION IS ALLOWED UNDER SECTION 245A.—
25 For purposes of subsection (a), in the case of a do-

1 mestic corporation which is a United States share-
2 holder with respect to a specified 10-percent owned
3 foreign corporation, such domestic corporation's tax-
4 able income from sources without the United States
5 shall be determined without regard to—

6 “(A) the foreign-source portion of any divi-
7 dend received from such foreign corporation,
8 and

9 “(B) any deductions properly allocable to
10 such portion.

11 Any term which is used in section 245A and in this
12 paragraph shall have the same meaning for purposes
13 of this paragraph as when used in such section.”.

14 (e) CONFORMING AMENDMENTS.—

15 (1) Paragraph (4) of section 245(a) is amended
16 by striking “section 902(c)(1)” and inserting “sec-
17 tion 245A(e)(2)”.

18 (2) Subsection (b) of section 951 is amended by
19 striking “subpart” and inserting “title”.

20 (3) Subsection (a) of section 957 is amended by
21 striking “subpart” in the matter preceding para-
22 graph (1) and inserting “title”.

23 (4) The table of sections for part VIII of sub-
24 chapter B of chapter 1 is amended by inserting after

1 the item relating to section 245 the following new
2 item:

“Sec. 245A. Dividends received by domestic corporations from certain foreign corporations.”.

3 (f) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years of foreign corpora-
5 tions beginning after December 31, 2014, and to taxable
6 years of United States shareholders in which or with which
7 such taxable years of foreign corporations end.

8 **SEC. 4002. LIMITATION ON LOSSES WITH RESPECT TO**
9 **SPECIFIED 10-PERCENT OWNED FOREIGN**
10 **CORPORATIONS.**

11 (a) BASIS IN SPECIFIED 10-PERCENT OWNED FOR-
12 EIGN CORPORATION REDUCED BY NONTAXED PORTION
13 OF DIVIDEND FOR PURPOSES OF DETERMINING LOSS.—

14 (1) IN GENERAL.—Section 961 is amended by
15 adding at the end the following new subsection:

16 “(d) BASIS IN SPECIFIED 10-PERCENT OWNED FOR-
17 EIGN CORPORATION REDUCED BY NONTAXED PORTION
18 OF DIVIDEND FOR PURPOSES OF DETERMINING LOSS.—
19 If a domestic corporation received a dividend from a speci-
20 fied 10-percent owned foreign corporation (as defined in
21 section 245A) in any taxable year, solely for purposes of
22 determining loss on any disposition in such taxable year
23 or any subsequent taxable year, the basis of such domestic
24 corporation in the stock of such foreign corporation shall

1 be reduced by the amount of any deduction allowable to
2 such domestic corporation under section 245A with re-
3 spect to such stock.”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by this subsection shall apply to dividends received
6 in taxable years beginning after December 31, 2014.

7 (b) TREATMENT OF FOREIGN BRANCH LOSSES
8 TRANSFERRED TO SPECIFIED 10-PERCENT OWNED FOR-
9 EIGN CORPORATIONS.—

10 (1) IN GENERAL.—Part II of subchapter B of
11 chapter 1, as amended by the preceding provisions
12 of this Act, is amended by adding at the end the fol-
13 lowing new section:

14 **“SEC. 92. CERTAIN FOREIGN BRANCH LOSSES TRANS-**
15 **FERRED TO SPECIFIED 10-PERCENT OWNED**
16 **FOREIGN CORPORATIONS.**

17 “(a) IN GENERAL.—If a domestic corporation trans-
18 fers substantially all of the assets of a foreign branch
19 (within the meaning of section 367(a)(3)(C)) to a specified
20 10-percent owned foreign corporation (as defined in sec-
21 tion 245A) with respect to which it is a United States
22 shareholder after such transfer, such domestic corporation
23 shall include in gross income for the taxable year which
24 includes such transfer an amount equal to the transferred
25 loss amount with respect to such transfer.

1 “(b) LIMITATION AND CARRYFORWARD BASED ON
2 FOREIGN-SOURCE DIVIDENDS RECEIVED.—

3 “(1) IN GENERAL.—The amount included in
4 the gross income of the taxpayer under subsection
5 (a) for any taxable year shall not exceed the amount
6 allowed as a deduction under section 245A for such
7 taxable year (taking into account dividends received
8 from all specified 10-percent owned foreign corpora-
9 tions with respect to which the taxpayer is a United
10 States shareholder).

11 “(2) AMOUNTS NOT INCLUDED CARRIED FOR-
12 WARD.—Any amount not included in gross income
13 for any taxable year by reason of paragraph (1)
14 shall, subject to the application of paragraph (1) to
15 the succeeding taxable year, be included in gross in-
16 come for the succeeding taxable year.

17 “(c) TRANSFERRED LOSS AMOUNT.—For purposes
18 of this section, the term ‘transferred loss amount’ means,
19 with respect to any transfer of substantially all of the as-
20 sets of a foreign branch, the excess (if any) of—

21 “(1) the sum of losses—

22 “(A) which were incurred by the foreign
23 branch after December 31, 2014, and before
24 the transfer, and

1 “(B) with respect to which a deduction was
2 allowed to the taxpayer, over
3 “(2) the sum of—
4 “(A) any taxable income of such branch
5 for a taxable year after the taxable year in
6 which the loss was incurred and through the
7 close of the taxable year of the transfer, and
8 “(B) any amount which is recognized
9 under section 904(f)(3) on account of the trans-
10 fer.
11 “(d) REDUCTION FOR RECOGNIZED GAINS.—
12 “(1) IN GENERAL.—In the case of a transfer
13 not described in section 367(a)(3)(C), the trans-
14 ferred loss amount shall be reduced (but not below
15 zero) by the amount of gain recognized by the tax-
16 payer on account of the transfer (other than
17 amounts taken into account under subsection
18 (c)(2)(B)).
19 “(2) COORDINATION WITH RECOGNITION
20 UNDER SECTION 367.—In the case of a transfer de-
21 scribed in section 367(a)(3)(C), the transferred loss
22 amount shall not exceed the excess (if any) of—
23 “(A) the excess of the amount described in
24 section 367(a)(3)(C)(i) over the amount de-

1 scribed in section 367(a)(3)(C)(ii) with respect
2 to such transfer, over

3 “(B) the amount of gain recognized under
4 section 367(a)(3)(C) with respect to such trans-
5 fer.

6 “(e) SOURCE OF INCOME.—Amounts included in
7 gross income under this section shall be treated as derived
8 from sources within the United States.

9 “(f) BASIS ADJUSTMENTS.—Consistent with such
10 regulations or other guidance as the Secretary may pre-
11 scribe, proper adjustments shall be made in the adjusted
12 basis of the taxpayer’s stock in the specified 10-percent
13 owned foreign corporation to which the transfer is made,
14 and in the transferee’s adjusted basis in the property
15 transferred, to reflect amounts included in gross income
16 under this section.”.

17 (2) AMOUNTS RECOGNIZED UNDER SECTION 367
18 ON TRANSFER OF FOREIGN BRANCH WITH PRE-
19 VIOUSLY DEDUCTED LOSSES TREATED AS UNITED
20 STATES SOURCE.—Subparagraph (C) of section
21 367(a)(3) is amended by striking “outside” in the
22 last sentence and inserting “within”.

23 (3) CLERICAL AMENDMENT.—The table of sub-
24 parts for such part, as amended by the preceding

1 provisions of this Act, is amended by adding at the
2 end the following new item:

“Sec. 92. Certain foreign branch losses transferred to specified 10-percent
owned foreign corporations.”.

3 (4) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to transfers after De-
5 cember 31, 2014.

6 **SEC. 4003. TREATMENT OF DEFERRED FOREIGN INCOME**
7 **UPON TRANSITION TO PARTICIPATION EX-**
8 **EMPTION SYSTEM OF TAXATION.**

9 (a) IN GENERAL.—Section 965 is amended to read
10 as follows:

11 **“SEC. 965. TREATMENT OF DEFERRED FOREIGN INCOME**
12 **UPON TRANSITION TO PARTICIPATION EX-**
13 **EMPTION SYSTEM OF TAXATION.**

14 “(a) TREATMENT OF DEFERRED FOREIGN INCOME
15 AS SUBPART F INCOME.—In the case of the last taxable
16 year of a deferred foreign income corporation which begins
17 before January 1, 2015, the subpart F income of such
18 foreign corporation (as otherwise determined for such tax-
19 able year under section 952) shall be increased by the ac-
20 cumulated post-1986 deferred foreign income of such cor-
21 poration determined as of the close of such taxable year.

22 “(b) REDUCTION IN AMOUNTS INCLUDED IN GROSS
23 INCOME OF UNITED STATES SHAREHOLDERS OF SPECI-

1 FIED FOREIGN CORPORATIONS WITH DEFICITS IN EARN-
2 INGS AND PROFITS.—

3 “(1) IN GENERAL.—In the case of a taxpayer
4 which is a United States shareholder with respect to
5 at least one deferred foreign income corporation and
6 at least one E&P deficit foreign corporation, the
7 amount which would (but for this subsection) be
8 taken into account under section 951(a)(1) by rea-
9 son of subsection (a) as such United States share-
10 holder’s pro rata share of the subpart F income of
11 each deferred foreign income corporation shall be re-
12 duced (but not below zero) by the amount of such
13 United States shareholder’s aggregate foreign E&P
14 deficit which is allocated under paragraph (2) to
15 such deferred foreign income corporation.

16 “(2) ALLOCATION OF AGGREGATE FOREIGN E&P
17 DEFICIT.—The aggregate foreign E&P deficit of any
18 United States shareholder shall be allocated among
19 the deferred foreign income corporations of such
20 United States shareholder in an amount which bears
21 the same proportion to such aggregate as—

22 “(A) such United States shareholder’s pro
23 rata share of the accumulated post-1986 de-
24 ferred foreign income of each such deferred for-
25 eign income corporation, bears to

1 “(B) the aggregate of such United States
2 shareholder’s pro rata share of the accumulated
3 post-1986 deferred foreign income of all de-
4 ferred foreign income corporations of such
5 United States shareholder.

6 “(3) DEFINITIONS RELATED TO E&P DEF-
7 CITS.—For purposes of this subsection—

8 “(A) AGGREGATE FOREIGN E&P DEF-
9 ICIT.—The term ‘aggregate foreign E&P deficit’
10 means, with respect to any United States share-
11 holder, the aggregate of such shareholder’s pro
12 rata shares of the specified E&P deficits of the
13 E&P deficit foreign corporations of such share-
14 holder.

15 “(B) E&P DEFICIT FOREIGN CORPORA-
16 TION.—The term ‘E&P deficit foreign corpora-
17 tion’ means, with respect to any taxpayer, any
18 specified foreign corporation with respect to
19 which such taxpayer is a United States share-
20 holder, if—

21 “(i) such specified foreign corporation
22 has a deficit in post-1986 earnings and
23 profits, and

24 “(ii) as of February 26, 2014—

1 “(I) such corporation was a spec-
2 ified foreign corporation, and

3 “(II) such taxpayer was a United
4 States shareholder of such corpora-
5 tion.

6 “(C) SPECIFIED E&P DEFICIT.—The term
7 ‘specified E&P deficit’ means, with respect to
8 any E&P deficit foreign corporation, the
9 amount of the deficit referred to in subpara-
10 graph (B).

11 “(c) APPLICATION OF PARTICIPATION EXEMPTION
12 TO INCLUDED INCOME.—

13 “(1) IN GENERAL.—In the case of a United
14 States shareholder of a deferred foreign income cor-
15 poration, there shall be allowed as a deduction for
16 the taxable year in which an amount is included in
17 the gross income of such United States shareholder
18 under section 951(a)(1) by reason of this section an
19 amount equal to the sum of—

20 “(A) 90 percent of the excess (if any) of—

21 “(i) the amount so included as gross
22 income, over

23 “(ii) the amount of such United
24 States shareholder’s aggregate foreign cash
25 position, plus

1 “(B) 75 percent of so much of the amount
2 described in subparagraph (A)(ii) as does not
3 exceed the amount described in subparagraph
4 (A)(i).

5 “(2) AGGREGATE FOREIGN CASH POSITION.—

6 For purposes of this subsection—

7 “(A) IN GENERAL.—The term ‘aggregate
8 foreign cash position’ means, with respect to
9 any United States shareholder, the greater of—

10 “(i) the aggregate of such United
11 States shareholder’s pro rata share of the
12 cash position of each specified foreign cor-
13 poration of such United States shareholder
14 determined as of the close of the last tax-
15 able year of such specified foreign corpora-
16 tion which begins before January 1, 2015,
17 or

18 “(ii) one half of the sum of—

19 “(I) the aggregate described in
20 clause (i) determined as of the close of
21 the last taxable year of each such
22 specified foreign corporation which
23 ends before February 26, 2014, plus

24 “(II) the aggregate described in
25 clause (i) determined as of the close of

1 the taxable year of each such specified
2 foreign corporation which precedes the
3 taxable year referred to in subclause
4 (I).

5 “(B) CASH POSITION.—For purposes of
6 this paragraph, the cash position of any speci-
7 fied foreign corporation is the sum of—

8 “(i) cash and foreign currency held by
9 such foreign corporation,

10 “(ii) the net accounts receivable of
11 such foreign corporation, plus

12 “(iii) the fair market value of the fol-
13 lowing assets held by such corporation:

14 “(I) Actively traded personal
15 property for which there is an estab-
16 lished financial market.

17 “(II) Commercial paper, certifi-
18 cates of deposit, the securities of the
19 Federal government and of any State
20 or foreign government

21 “(III) Any obligation with a term
22 of less than one year.

23 “(IV) Any asset which the Sec-
24 retary identifies as being economically

1 equivalent to any asset described in
2 this subparagraph.

3 “(C) NET ACCOUNTS RECEIVABLE.—For
4 purposes of this paragraph, the term ‘net ac-
5 counts receivable’ means, with respect to any
6 specified foreign corporation, the excess (if any)
7 of—

8 “(i) such corporation’s accounts re-
9 ceivable, over

10 “(ii) such corporation’s accounts pay-
11 able (determined consistent with the rules
12 of section 461).

13 “(D) PREVENTION OF DOUBLE COUNT-
14 ING.—Cash positions of a specified foreign cor-
15 poration described in clause (ii) or (iii)(III) of
16 subparagraph (B) shall not be taken into ac-
17 count by a United States shareholder under
18 subparagraph (A) to the extent that such
19 United States shareholder demonstrates to the
20 satisfaction of the Secretary that such amount
21 is so taken into account by such United States
22 shareholder with respect to another specified
23 foreign corporation.

24 “(E) CASH POSITIONS OF FOREIGN PASS-
25 THRU ENTITIES TAKEN INTO ACCOUNT.—Any

1 foreign entity which would be a specified for-
2 eign corporation of a United States shareholder
3 if such entity were a corporation shall be treat-
4 ed as a specified foreign corporation of such
5 United States shareholder for purposes of de-
6 termining such United States shareholder's ag-
7 gregate foreign cash position.

8 “(F) ANTI-ABUSE.—If the Secretary deter-
9 mines that the principal purpose of any trans-
10 action was to reduce the aggregate foreign cash
11 position taken into account under this sub-
12 section, such transaction shall be disregarded
13 for purposes of this subsection.

14 “(d) DEFERRED FOREIGN INCOME CORPORATION;
15 ACCUMULATED POST-1986 DEFERRED FOREIGN IN-
16 COME.—For purposes of this section—

17 “(1) DEFERRED FOREIGN INCOME CORPORA-
18 TION.—The term ‘deferred foreign income corpora-
19 tion’ means, with respect to any United States
20 shareholder, any specified foreign corporation of
21 such United States shareholder which has accumu-
22 lated post-1986 deferred foreign income (as of the
23 close of the taxable year referred to in subsection
24 (a)) greater than zero.

1 “(2) ACCUMULATED POST-1986 DEFERRED FOR-
2 EIGN INCOME.—The term ‘accumulated post-1986
3 deferred foreign income’ means the post-1986 earn-
4 ings and profits except to the extent such earnings—
5 “(A) are attributable to income of the
6 specified foreign corporation which is effectively
7 connected with the conduct of a trade or busi-
8 ness within the United States and subject to
9 tax under this chapter,
10 “(B) if distributed, would—
11 “(i) in the case of a controlled foreign
12 corporation, be excluded from the gross in-
13 come of a United States shareholder under
14 section 959, or
15 “(ii) in the case of any passive foreign
16 investment company (as defined in section
17 1297) other than a controlled foreign cor-
18 poration, be treated as a distribution which
19 is not a dividend, or
20 “(C) in the case of any passive foreign in-
21 vestment company (as so defined), is properly
22 attributable to an unreversed inclusion of a
23 United States person under section 1296.
24 To the extent provided in regulations or other guid-
25 ance prescribed by the Secretary, in the case of any

1 controlled foreign corporation which has share-
2 holders which are not United States shareholders,
3 accumulated post-1986 deferred foreign income shall
4 be appropriately reduced by amounts which would be
5 described in subparagraph (B)(i) if such share-
6 holders were United States shareholders. Such regu-
7 lations or other guidance may provide a similar rule
8 for purposes of subparagraph (B)(ii) and (C).

9 “(3) POST-1986 EARNINGS AND PROFITS.—The
10 term ‘post-1986 earnings and profits’ means the
11 earnings and profits of the foreign corporation (com-
12 puted in accordance with sections 964(a) and 986)
13 accumulated in taxable years beginning after Decem-
14 ber 31, 1986, and determined—

15 “(A) as of the close the taxable year re-
16 ferred to in subsection (a), and

17 “(B) without diminution by reason of divi-
18 dends distributed during such taxable year.

19 “(e) SPECIFIED FOREIGN CORPORATION.—

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, the term ‘specified foreign corporation’
22 means—

23 “(A) any controlled foreign corporation,
24 and

1 “(B) any section 902 corporation (as de-
2 fined in section 909(d)(5) as in effect before the
3 date of the enactment of the Tax Reform Act
4 of 2014).

5 “(2) APPLICATION TO SECTION 902 CORPORA-
6 TIONS.—For purposes of section 951, a section 902
7 corporation (as so defined) shall be treated as a con-
8 trolled foreign corporation solely for purposes of tak-
9 ing into account the subpart F income of such cor-
10 poration under subsection (a) (and for purposes of
11 applying subsection (f)).

12 “(f) DETERMINATIONS OF PRO RATA SHARE.—For
13 purposes of this section, the determination of any United
14 States shareholder’s pro rata share of any amount with
15 respect to any specified foreign corporation shall be deter-
16 mined under rules similar to the rules of section 951(a)(2)
17 by treating such amount in the same manner as subpart
18 F income (and by treating such specified foreign corpora-
19 tion as a controlled foreign corporation).

20 “(g) DISALLOWANCE OF FOREIGN TAX CREDIT,
21 ETC.—

22 “(1) IN GENERAL.—No credit shall be allowed
23 under section 901 for the applicable percentage of
24 any taxes paid or accrued (or treated as paid or ac-

1 crued) with respect to any amount for which a de-
2 duction is allowed under this section.

3 “(2) APPLICABLE PERCENTAGE.—For purposes
4 of this subsection, the term ‘applicable percentage’
5 means the amount (expressed as a percentage) equal
6 to the sum of—

7 “(A) 0.9 multiplied by the ratio of—

8 “(i) the excess to which subsection
9 (c)(1)(A) applies, divided by

10 “(ii) the sum of such excess plus the
11 amount to which subsection (c)(1)(B) ap-
12 plies, plus

13 “(B) 0.75 multiplied by the ratio of—

14 “(i) the amount to which subsection
15 (c)(1)(B) applies, divided by

16 “(ii) the sum described in subpara-
17 graph (A)(ii).

18 “(3) DENIAL OF DEDUCTION.—No deduction
19 shall be allowed under this chapter for any tax for
20 which credit is not allowable under section 901 by
21 reason of paragraph (1) (determined by treating the
22 taxpayer as having elected the benefits of subpart A
23 of part III of subchapter N).

24 “(4) COORDINATION WITH SECTION 78.—Sec-
25 tion 78 shall not apply to any tax for which credit

1 is not allowable under section 901 by reason of para-
2 graph (1).

3 “(h) ELECTION TO PAY LIABILITY IN INSTALL-
4 MENTS.—

5 “(1) IN GENERAL.—In the case of a United
6 States shareholder of a deferred foreign income cor-
7 poration, such United States shareholder may elect
8 to pay the net tax liability under this section in 8
9 installments of the following amounts:

10 “(A) 8 percent of the net tax liability in
11 the case of each of the first 5 of such install-
12 ments,

13 “(B) 15 percent of the net tax liability in
14 the case of the 6th such installment,

15 “(C) 20 percent of the net tax liability in
16 the case of the 7th such installment, and

17 “(D) 25 percent of the net tax liability in
18 the case of the 8th such installment.

19 “(2) DATE FOR PAYMENT OF INSTALLMENTS.—

20 If an election is made under paragraph (1), the first
21 installment shall be paid on the due date (deter-
22 mined without regard to any extension of time for
23 filing the return) for the return of tax for the tax-
24 able year described in subsection (b) and each suc-
25 ceeding installment shall be paid on the due date (as

1 so determined) for the return of tax for the taxable
2 year following the taxable year with respect to which
3 the preceding installment was made.

4 “(3) ACCELERATION OF PAYMENT.—If there is
5 an addition to tax for failure to pay timely assessed
6 with respect to any installment required under this
7 subsection, a liquidation or sale of substantially all
8 the assets of the taxpayer (including in a title 11 or
9 similar case), a cessation of business by the tax-
10 payer, or any similar circumstance, then the unpaid
11 portion of all remaining installments shall be due on
12 the date of such event (or in the case of a title 11
13 or similar case, the day before the petition is filed).
14 The preceding sentence shall not apply to the sale
15 of substantially all the assets of a taxpayer to a
16 buyer if such buyer enters into an agreement with
17 the Secretary under which such buyer is liable for
18 the remaining installments due under this subsection
19 in the same manner as if such buyer were the tax-
20 payer.

21 “(4) PRORATION OF DEFICIENCY TO INSTALL-
22 MENTS.—If an election is made under paragraph (1)
23 to pay the net tax liability under this section in in-
24 stallments and a deficiency has been assessed with
25 respect to such net tax liability, the deficiency shall

1 be prorated to the installments payable under para-
2 graph (1). The part of the deficiency so prorated to
3 any installment the date for payment of which has
4 not arrived shall be collected at the same time as,
5 and as a part of, such installment. The part of the
6 deficiency so prorated to any installment the date
7 for payment of which has arrived shall be paid upon
8 notice and demand from the Secretary. This sub-
9 section shall not apply if the deficiency is due to
10 negligence, to intentional disregard of rules and reg-
11 ulations, or to fraud with intent to evade tax.

12 “(5) ELECTION.—Any election under paragraph
13 (1) shall be made not later than the due date for the
14 return of tax for the taxable year described in sub-
15 section (a) and shall be made in such manner as the
16 Secretary may provide.

17 “(6) NET TAX LIABILITY UNDER THIS SEC-
18 TION.—For purposes of this subsection—

19 “(A) IN GENERAL.—The net tax liability
20 under this section with respect to any United
21 States shareholder is the excess (if any) of—

22 “(i) such taxpayer’s net income tax
23 for the taxable year described in subsection
24 (a), over

1 “(ii) such taxpayer’s net income tax
2 for such taxable year determined without
3 regard to this section.

4 “(B) NET INCOME TAX.—The term ‘net
5 income tax’ means the regular tax liability re-
6 duced by the credits allowed under subparts A,
7 B, and D of part IV of subchapter A.

8 “(i) SPECIAL RULES FOR S CORPORATION SHARE-
9 HOLDERS.—

10 “(1) IN GENERAL.—In the case of any S cor-
11 poration which is a United States shareholder of a
12 deferred foreign income corporation, each share-
13 holder of such S corporation may elect to defer pay-
14 ment of such shareholder’s net tax liability under
15 this section with respect to such S corporation until
16 the shareholder’s taxable year which includes the
17 triggering event with respect to such liability.

18 “(2) TRIGGERING EVENT.—

19 “(A) IN GENERAL.—In the case of any
20 shareholder’s net tax liability under this section
21 with respect to any S corporation, the trig-
22 gering event with respect to such liability is
23 whichever of the following occurs first:

24 “(i) Such corporation ceases to be an
25 S corporation (determined as of the first

1 day of the first taxable year that such cor-
2 poration is not an S corporation).

3 “(ii) A liquidation or sale of substan-
4 tially all the assets of such S corporation
5 (including in a title 11 or similar case), a
6 cessation of business by such S corpora-
7 tion, such S corporation ceases to exist, or
8 any similar circumstance.

9 “(iii) A transfer of any share of stock
10 in such S corporation by the taxpayer (in-
11 cluding by reason of death, or otherwise).

12 “(B) PARTIAL TRANSFERS OF STOCK.—In
13 the case of a transfer of less than all of the tax-
14 payer’s shares of stock in the S corporation,
15 such transfer shall only be a triggering event
16 with respect to so much of the taxpayer’s net
17 tax liability under this section with respect to
18 such S corporation as is properly allocable to
19 such stock.

20 “(C) TRANSFER OF LIABILITY.—A trans-
21 fer described in clause (iii) shall not be treated
22 as a triggering event if the transferee enters
23 into an agreement with the Secretary under
24 which such transferee is liable for net tax liabil-

1 ity with respect to such stock in the same man-
2 ner as if such transferee were the taxpayer.

3 “(3) NET TAX LIABILITY.—A shareholder’s net
4 tax liability under this section with respect to any S
5 corporation is the net tax liability under this section
6 which would be determined under subsection (h)(6)
7 if the only subpart F income taken into account by
8 such shareholder by reason of this section were allo-
9 cations from such S corporation.

10 “(4) ELECTION TO PAY DEFERRED LIABILITY
11 IN INSTALLMENTS.—In the case of a taxpayer which
12 elects to defer payment under paragraph (1), sub-
13 section (h) shall be applied—

14 “(A) separately with respect to the liability
15 to which such election applies,

16 “(B) an election under subsection (h) with
17 respect to such liability shall be treated as time-
18 ly made if made not later than the due date for
19 the return of tax for the taxable year in which
20 the triggering event with respect to such liabil-
21 ity occurs,

22 “(C) the first installment under subsection
23 (h) with respect to such liability shall be paid
24 not later than such due date (but determined

1 without regard to any extension of time for fil-
2 ing the return), and

3 “(D) if the triggering event with respect to
4 any net tax liability is described in paragraph
5 (2)(A)(ii), an election under subsection (h) with
6 respect to such liability may be made only with
7 the consent of the Secretary.

8 “(5) JOINT AND SEVERAL LIABILITY OF S COR-
9 PORATION.—If any shareholder of an S corporation
10 elects to defer payment under paragraph (1), such
11 S corporation shall be jointly and severally liable for
12 such payment and any penalty, addition to tax, or
13 additional amount attributable thereto.

14 “(6) EXTENSION OF LIMITATION ON COLLEC-
15 TION.—Notwithstanding any other provision of law,
16 any limitation on the time period for the collection
17 of a liability deferred under this subsection shall not
18 be treated as beginning before the date of the trig-
19 gering event with respect to such liability.

20 “(7) ELECTION.—Any election under paragraph
21 (1) shall be made not later than the due date for the
22 return of tax for the taxable year described in sub-
23 section (a) and shall be made in such manner as the
24 Secretary may provide.

1 “(j) INCLUSION OF DEFERRED FOREIGN INCOME
2 UNDER THIS SECTION NOT TO TRIGGER RECAPTURE OF
3 OVERALL FOREIGN LOSS.—For purposes of section
4 904(f)(1), in the case of a United States shareholder of
5 a deferred foreign income corporation, such United States
6 shareholder’s taxable income from sources without the
7 United States shall be determined without regard to this
8 section.

9 “(k) REGULATIONS.—The Secretary may prescribe
10 such regulations or other guidance as may be necessary
11 or appropriate to carry out the provisions of this section.”.

12 (b) DEDICATION OF REVENUES TO HIGHWAY TRUST
13 FUND.—

14 (1) IN GENERAL.—Section 9503(f) is amended
15 by redesignating paragraph (5) as paragraph (6)
16 and by inserting after paragraph (4) the following
17 new paragraph:

18 “(5) APPROPRIATION TO TRUST FUND OF NET
19 TAX LIABILITIES RECEIVED UNDER SECTION 965.—

20 “(A) IN GENERAL.—Out of money in the
21 Treasury not otherwise appropriated, there are
22 hereby appropriated to the Highway Trust
23 Fund amounts equivalent to the aggregate net
24 tax liabilities under section 965 (as defined in
25 such section) received in the Treasury.

1 “(B) MONTHLY TRANSFERS BASED ON ES-
2 TIMATES.—For rule providing for the monthly
3 transfer of amounts appropriated under sub-
4 paragraph (A) based on estimates of the Sec-
5 retary, see section 9601.”.

6 (2) TRANSFERS TO MASS TRANSIT ACCOUNT.—
7 Section 9503(e)(2) is amended by striking “the
8 mass transit portion” and inserting “, 20 percent of
9 the amounts appropriated to the Highway Trust
10 Fund under subsection (f)(5), and the mass transit
11 portion”.

12 (c) CLERICAL AMENDMENT.—The table of section for
13 subpart F of part III of subchapter N of chapter 1 is
14 amended by striking the item relating to section 965 and
15 inserting the following:

 “Sec. 965. Treatment of deferred foreign income upon transition to participa-
 tion exemption system of taxation.”.

16 **SEC. 4004. LOOK-THRU RULE FOR RELATED CONTROLLED**
17 **FOREIGN CORPORATIONS MADE PERMA-**
18 **NENT.**

19 (a) IN GENERAL.—Paragraph (6) of section 954(e)
20 is amended by striking subparagraph (C).

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years of foreign corpora-
23 tions beginning after December 31, 2013, and to taxable

1 years of United States shareholders in which or with which
2 such taxable years of foreign corporations end.

3 **Subtitle B—Modifications Related**
4 **to Foreign Tax Credit System**

5 **SEC. 4101. REPEAL OF SECTION 902 INDIRECT FOREIGN**
6 **TAX CREDITS; DETERMINATION OF SECTION**
7 **960 CREDIT ON CURRENT YEAR BASIS.**

8 (a) REPEAL OF SECTION 902 INDIRECT FOREIGN
9 TAX CREDITS.—Subpart A of part III of subchapter N
10 of chapter 1 is amended by striking section 902.

11 (b) DETERMINATION OF SECTION 960 CREDIT ON
12 CURRENT YEAR BASIS.—Section 960 is amended—

13 (1) by striking subsection (c), by redesignating
14 subsection (b) as subsection (c), by striking all that
15 precedes subsection (c) (as so redesignated) and in-
16 serting the following:

17 **“SEC. 960. DEEMED PAID CREDIT FOR SUBPART F INCLU-**
18 **SIONS.**

19 “(a) IN GENERAL.—For purposes of this subpart, if
20 there is included in the gross income of a domestic cor-
21 poration any item of income under section 951(a)(1) with
22 respect to any controlled foreign corporation with respect
23 to which such domestic corporation is a United States
24 shareholder, such domestic corporation shall be deemed to
25 have paid so much of such foreign corporation’s foreign

1 income taxes as are properly attributable to the item of
2 income so included.

3 “(b) SPECIAL RULES FOR DISTRIBUTIONS FROM
4 PREVIOUSLY TAXED EARNINGS AND PROFITS.—For pur-
5 poses of this subpart—

6 “(1) IN GENERAL.—If any portion of a dis-
7 tribution from a controlled foreign corporation to a
8 domestic corporation which is a United States share-
9 holder with respect to such controlled foreign cor-
10 poration is excluded from gross income under section
11 959(a), such domestic corporation shall be deemed
12 to have paid so much of such foreign corporation’s
13 foreign income taxes as—

14 “(A) are properly attributable to such por-
15 tion, and

16 “(B) have not been deemed to have to been
17 paid by such domestic corporation under this
18 section for any prior taxable year.

19 “(2) TIERED CONTROLLED FOREIGN CORPORA-
20 TIONS.—If section 959(b) applies to any portion of
21 a distribution from a controlled foreign corporation
22 to another controlled foreign corporation, such con-
23 trolled foreign corporation shall be deemed to have
24 paid so much of such other controlled foreign cor-
25 poration’s foreign income taxes as—

1 “(A) are properly attributable to such por-
2 tion, and

3 “(B) have not been deemed to have been
4 paid by a domestic corporation under this sec-
5 tion for any prior taxable year.”,

6 (2) and by adding after subsection (c) (as so re-
7 designated) the following new subsections:

8 “(d) FOREIGN INCOME TAXES.—The term ‘foreign
9 income taxes’ means any income, war profits, or excess
10 profits taxes paid or accrued to any foreign country or
11 possession of the United States.

12 “(e) REGULATIONS.—The Secretary shall provide
13 such regulations as may be necessary or appropriate to
14 carry out the provisions of this section.”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 78 is amended to read as follows:

17 **“SEC. 78. GROSS UP FOR DEEMED PAID FOREIGN TAX**
18 **CREDIT.**

19 “If a domestic corporation chooses to have the bene-
20 fits of subpart A of part III of subchapter N (relating
21 to foreign tax credit) for any taxable year, an amount
22 equal to the taxes deemed to be paid by such corporation
23 under section 960 (relating to deemed paid credit for sub-
24 part F inclusions) for such taxable year shall be treated
25 for purposes of this title (other than section 960) as an

1 item of income required to be included in the gross income
2 of such domestic corporation under section 951(a).”.

3 (2) Section 245(a)(10) is amended by striking
4 “902,”.

5 (3) Sections 535(b)(1) and 545(b)(1) are each
6 amended by striking “section 902(a) or 960(a)(1)”
7 and inserting “section 960”.

8 (4) Paragraph (1) of section 814(f) is amend-
9 ed—

10 (A) by striking subparagraph (B), and

11 (B) by striking all that precedes “No in-
12 come” and inserting the following:

13 “(1) TREATMENT OF FOREIGN TAXES.—”.

14 (5) Subparagraph (B) of section 864(h)(1) is
15 amended by striking “902,”.

16 (6) Subsection (a) of section 901 is amended by
17 striking “sections 902 and 960” and inserting “sec-
18 tion 960”.

19 (7) Paragraph (2) of section 901(e) is amended
20 by striking “but is not limited to—” and all that fol-
21 lows through “that portion” and inserting “but is
22 not limited to that portion”.

23 (8) Subsection (f) of section 901 is amended by
24 striking “sections 902 and 960” and inserting “sec-
25 tion 960”.

1 (9) Subparagraph (A) of section 901(j)(1) is
2 amended by striking “902 or”.

3 (10) Subparagraph (B) of section 901(j)(1) is
4 amended by striking “sections 902 and 960” and in-
5 serting “section 960”.

6 (11) Paragraph (2) of section 901(k) is amend-
7 ed by striking “902,”.

8 (12) Paragraph (6) of section 901(k) is amend-
9 ed by striking “902 or”.

10 (13) Subparagraph (A) of section 904(h)(10) is
11 amended by striking “sections 902, 907, and 960”
12 and inserting “sections 907 and 960”.

13 (14) Section 904 is amended by striking sub-
14 section (k).

15 (15) Paragraph (1) of section 905(c) is amend-
16 ed by striking the last sentence.

17 (16) Subclause (I) of section 905(c)(2)(B)(i) is
18 amended by striking “section 902 or”.

19 (17) Subsection (a) of section 906 is amended
20 by striking “(or deemed, under section 902, paid or
21 acerued during the taxable year)”.

22 (18) Subsection (b) of section 906 is amended
23 by striking paragraphs (4) and (5).

24 (19) Subparagraph (B) of section 907(b)(2) is
25 amended by striking “902 or”.

1 (20) Paragraph (3) of section 907(c) is amend-
2 ed—

3 (A) by striking subparagraph (A) and re-
4 designating subparagraphs (B) and (C) as sub-
5 paragraphs (A) and (B), respectively, and

6 (B) by striking “section 960(a)” in sub-
7 paragraph (A) (as so redesignated) and insert-
8 ing “section 960”.

9 (21) Paragraph (5) of section 907(c) is amend-
10 ed by striking “902 or”.

11 (22) Clause (i) of section 907(f)(2)(B) is
12 amended by striking “902 or”.

13 (23) Subsection (a) of section 908 is amended
14 by striking “902 or”.

15 (24) Subsection (b) of section 909 is amend-
16 ed—

17 (A) by striking “section 902 corporation”
18 in the matter preceding paragraph (1) and in-
19 serting “specified 10-percent owned foreign cor-
20 poration”,

21 (B) by striking “902 or” in paragraph (1),

22 (C) by striking “by such section 902 cor-
23 poration” and all that follows in the matter fol-
24 lowing paragraph (2) and inserting “by such
25 specified 10-percent owned foreign corporation

1 or a domestic corporation which is a United
2 States shareholder with respect to such speci-
3 fied 10-percent owned foreign corporation.”,
4 and

5 (D) by striking “SECTION 902 CORPORA-
6 TIONS” in the heading thereof and inserting
7 “SPECIFIED 10-PERCENT OWNED FOREIGN
8 CORPORATIONS”.

9 (25) Subsection (d) of section 909 is amended
10 by striking paragraph (5).

11 (26) Paragraph (1) of section 958(a) is amend-
12 ed by striking “960(a)(1)” and inserting “960”.

13 (27) Subsection (d) of section 959 is amended
14 by striking “Except as provided in section 960(a)(3),
15 any” and inserting “Any”.

16 (28) Subsection (e) of section 959 is amended
17 by striking “and section 960(b)”.

18 (29) Subparagraph (A) of section 1291(g)(2) is
19 amended by striking “any distribution—” and all
20 that follows through “but only if” and inserting
21 “any distribution, any withholding tax imposed with
22 respect to such distribution, but only if”.

23 (30) Section 1293 is amended by striking sub-
24 section (f).

1 (31) Subparagraph (B) of section 6038(c)(1) is
2 amended by striking “sections 902 (relating to for-
3 eign tax credit for corporate stockholder in foreign
4 corporation) and 960 (relating to special rules for
5 foreign tax credit)” and inserting “section 960”.

6 (32) Paragraph (4) of section 6038(c) is
7 amended by striking subparagraph (C).

8 (33) The table of sections for subpart A of part
9 III of subchapter N of chapter 1 is amended by
10 striking the item relating to section 902.

11 (34) The table of sections for subpart F of part
12 III of subchapter N of chapter 1 is amended by
13 striking the item relating to section 960 and insert-
14 ing the following:

“Sec. 960. Deemed paid credit for subpart F inclusions.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years of foreign corpora-
17 tions beginning after December 31, 2014, and to taxable
18 years of United States shareholders in which or with which
19 such taxable years of foreign corporations end.

20 **SEC. 4102. FOREIGN TAX CREDIT LIMITATION APPLIED BY**
21 **ALLOCATING ONLY DIRECTLY ALLOCABLE**
22 **DEDUCTIONS TO FOREIGN SOURCE INCOME.**

23 (a) IN GENERAL.—Subsection (b) of section 904, as
24 amended by the preceding provisions of this Act, is amend-
25 ed by adding at the end the following new paragraph:

1 “(3) DEDUCTIONS ALLOCABLE TO FOREIGN
2 SOURCE INCOME ONLY IF DIRECTLY ALLOCABLE.—
3 For purposes of subsection (a), the taxpayer’s tax-
4 able income from sources without the United States
5 shall be determined by allocating deductions to such
6 income only if such deductions are directly allocable
7 to such income.”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years of foreign corpora-
10 tions beginning after December 31, 2014, and to taxable
11 years of United States shareholders in which or with which
12 such taxable years of foreign corporations end.

13 **SEC. 4103. PASSIVE CATEGORY INCOME EXPANDED TO IN-**
14 **CLUDE OTHER MOBILE INCOME.**

15 (a) TREATMENT OF FOREIGN BASE COMPANY IN-
16 TANGIBLE INCOME AND FOREIGN BASE COMPANY SALES
17 INCOME AS MOBILE CATEGORY INCOME.—Clause (i) of
18 section 904(d)(2)(A) is amended by striking “and speci-
19 fied passive category income” and inserting “specified pas-
20 sive category income, foreign base company sales income
21 (as defined in section 954(d)), and foreign base company
22 intangible income (as defined in section 954(f))”.

23 (b) REPEAL OF SPECIAL RULES TREATING FINAN-
24 CIAL SERVICES INCOME AS GENERAL CATEGORY IN-
25 COME.—Paragraph (2) of section 904(d) is amended by

1 striking subparagraphs (C) and (D) and by redesignating
2 subparagraphs (E) through (K) as subparagraphs (C)
3 through (I), respectively.

4 (c) CONFORMING AMENDMENTS.—

5 (1) RELATING TO REFERENCES TO PASSIVE IN-
6 COME.—

7 (A) Section 904(d)(1)(A) is amended by
8 striking “passive category income” and insert-
9 ing “mobile category income”.

10 (B) Section 904(d)(2)(A)(i), as amended
11 by subsection (a), is amended—

12 (i) by striking “PASSIVE CATEGORY
13 INCOME” in the heading thereof and insert-
14 ing “MOBILE CATEGORY INCOME”,

15 (ii) by striking “passive category in-
16 come” and inserting “mobile category in-
17 come”,

18 (iii) by striking “passive income” and
19 inserting “mobile income”, and

20 (iv) by striking “specified passive cat-
21 egory income” and inserting “specified mo-
22 bile category income”.

23 (C) Section 904(d)(2)(A)(ii) is amended by
24 striking “passive category income” and insert-
25 ing “mobile category income”.

- 1 (D) Section 904(d)(2)(B) is amended—
2 (i) by striking “PASSIVE INCOME” in
3 the heading thereof and inserting “MOBILE
4 INCOME”,
5 (ii) by striking “passive income” in
6 clauses (i), (ii), and (iii) and inserting
7 “mobile income”,
8 (iii) by striking “SPECIFIED PASSIVE
9 CATEGORY INCOME” in the heading of
10 clause (iv) and inserting “SPECIFIED MO-
11 BILE CATEGORY INCOME”, and
12 (iv) by striking “specified passive cat-
13 egory income” in clause (iv) and inserting
14 “specified mobile category income”.
15 (E) Section 904(d)(2)(D), as redesignated
16 by subsection (b), is amended by striking “pas-
17 sive income” and inserting “mobile income”.
18 (F) Section 904(d)(3)(A) is amended by
19 striking “passive category income” and insert-
20 ing “mobile category income”.
21 (G) Section 904(d)(3)(B) is amended by
22 striking “passive category income” both places
23 it appears and inserting “mobile category in-
24 come”.

1 (H) Section 904(d)(3)(C) is amended by
2 striking “passive category income” both places
3 it appears and inserting “mobile category in-
4 come”.

5 (I) Section 904(d)(3)(D) is amended by
6 striking “passive category income” both places
7 it appears and inserting “mobile category in-
8 come”.

9 (J) Section 904(d)(3)(E) is amended—

10 (i) by striking “passive category in-
11 come” both places it appears and inserting
12 “mobile category income”, and

13 (ii) by striking “passive income” and
14 inserting “mobile income”.

15 (K) Section 904(d)(3)(F) is amended by
16 striking “passive category income” both places
17 it appears and inserting “mobile category in-
18 come”.

19 (2) OTHER CONFORMING AMENDMENTS.—

20 (A) Subparagraph (B) of section 864(f)(5)
21 is amended by inserting “(as in effect before its
22 repeal)” after “section 904(d)(2)(D)(ii)”.

23 (B) Subparagraph (B) of section 954(e)(2)
24 is amended by striking “section 904(d)(2)(G)”
25 and inserting “section 904(d)(2)(E)”.

1 (d) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to taxable years of foreign
4 corporations beginning after December 31, 2014,
5 and to taxable years of United States shareholders
6 in which or with which such taxable years of foreign
7 corporations end.

8 (2) TREATMENT OF CARRYFORWARDS AND
9 CARRYBACKS.—For purposes of section 904 of the
10 Internal Revenue Code of 1986—

11 (A) the amendments made by this section
12 shall apply to any taxes carried from any tax-
13 able year beginning before January 1, 2015, to
14 any taxable year beginning on or after such
15 date, and

16 (B) the Secretary of the Treasury, or his
17 designee, may by regulations provide for the al-
18 location of any carryback of taxes with respect
19 to income from a taxable year beginning on or
20 after January 1, 2015, to a taxable year begin-
21 ning before such date for purposes of allocating
22 such income among the separate categories in
23 effect under section 904(d) for the taxable year
24 to which carried.

1 **SEC. 4104. SOURCE OF INCOME FROM SALES OF INVEN-**
2 **TORY DETERMINED SOLELY ON BASIS OF**
3 **PRODUCTION ACTIVITIES.**

4 (a) IN GENERAL.—Subsection (b) of section 863 is
5 amended by adding at the end the following: “Gains, prof-
6 its, and income from the sale or exchange of inventory
7 property described in paragraph (2) shall be allocated and
8 apportioned between sources within and without the
9 United States solely on the basis of the production activi-
10 ties with respect to the property.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to taxable years beginning after
13 December 31, 2014.

14 **Subtitle C—Rules Related to**
15 **Passive and Mobile Income**

16 **PART 1—MODIFICATION OF SUBPART F**
17 **PROVISIONS**

18 **SEC. 4201. SUBPART F INCOME TO ONLY INCLUDE LOW-**
19 **TAXED FOREIGN INCOME.**

20 (a) IN GENERAL.—Subsection (a) of section 954 is
21 amended—

22 (1) by redesignating paragraphs (1), (2), (3),
23 and (5) as subparagraphs (A) through (D), respec-
24 tively,

25 (2) by striking “For purposes of” and inserting
26 the following:

1 “(1) IN GENERAL.—For purposes of”, and
2 (3) by adding at the end the following new
3 paragraph:

4 “(2) APPLICATION ONLY TO FOREIGN BASE
5 COMPANY INCOME SUBJECT TO A LOW FOREIGN EF-
6 FECTIVE RATE OF TAX.—

7 “(A) IN GENERAL.—Foreign base company
8 income shall only include items of income re-
9 ceived by a controlled foreign corporation which
10 are subject to an effective rate of income tax
11 imposed by a foreign country which is less than
12 100 percent of the maximum rate of tax speci-
13 fied in section 11.

14 “(B) APPLICATION TO FOREIGN BASE
15 COMPANY INCOME SUBJECT TO REDUCED DO-
16 MESTIC RATE OF TAX.—

17 “(i) FOREIGN BASE COMPANY SALES
18 INCOME.—In the case of foreign base com-
19 pany sales income, subparagraph (A) shall
20 be applied by substituting ‘50 percent’ for
21 ‘100 percent’.

22 “(ii) FOREIGN BASE COMPANY INTAN-
23 GIBLE INCOME.—In the case of foreign
24 base company intangible income, subpara-
25 graph (A) shall be applied—

1 “(I) by substituting ‘the applica-
 2 ble percentage of the foreign percent-
 3 age (determined under section 250(c)
 4 with respect to the controlled foreign
 5 corporation)’ for ‘100 percent’, and
 6 “(II) by treating the foreign base
 7 company intangible income as a single
 8 item of income.
 9 “(iii) APPLICABLE PERCENTAGE.—
 10 For purposes of clause (ii)(I), the term
 11 ‘applicable percentage’ means, with respect
 12 to any taxable year of a controlled foreign
 13 corporation, the percentage determined in
 14 accordance with the following table:

“In the case of any taxable year beginning in:	The applicable percentage is:
2015	45 percent
2016	48 percent
2017	52 percent
2018	56 percent
2019 or thereafter	60 percent.”.

15 (b) INSURANCE INCOME.—Subsection (a) of section
 16 953 is amended by redesignating paragraph (2) as para-
 17 graph (3) and by inserting after paragraph (1) the fol-
 18 lowing new paragraph:

19 “(2) APPLICATION ONLY TO INSURANCE IN-
 20 COME SUBJECT TO A LOW FOREIGN EFFECTIVE
 21 RATE OF TAX.—Insurance income shall only include

1 items of income received by a controlled foreign cor-
2 poration which are subject to an effective rate of in-
3 come tax imposed by a foreign country which is less
4 than the maximum rate of tax specified in section
5 11.”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) Section 954(b)(3)(B) is amended by strik-
8 ing “paragraphs (4) and (5)” and inserting “sub-
9 section (a)(2), section 953(a)(2), and paragraph
10 (5)”

11 (2) Section 954(b) is amended by striking para-
12 graph (4).

13 (3) Section 954(c)(1) is amended by striking
14 “subsection (a)(1)” and inserting “this section”.

15 (4) Section 954(d)(1) is amended by striking
16 “subsection (a)(2)” and inserting “this section”.

17 (5) Section 954(e)(1) is amended by striking
18 “subsection (a)(3)” and inserting “this section”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years of foreign corpora-
21 tions beginning after December 31, 2014, and to taxable
22 years of United States shareholders in which or with which
23 such taxable years of foreign corporations end.

1 **SEC. 4202. FOREIGN BASE COMPANY SALES INCOME.**

2 (a) 50 PERCENT EXCLUSION FOR LOW-TAXED FOR-
3 EIGN BASE COMPANY SALES INCOME.—

4 (1) IN GENERAL.—Subparagraph (B) of section
5 954(a)(1), as amended by the preceding provisions
6 of this Act, is amended by inserting “50 percent of”
7 before “the foreign base company sales income”.

8 (2) PRESERVATION OF DEEMED PAID FOREIGN
9 TAX CREDIT ON LOW-TAXED FOREIGN BASE COM-
10 PANY INCOME.—Section 960, as amended by this
11 Act, is amended by redesignating subsection (c) as
12 subsection (d) and by inserting after subsection (b)
13 the following new subsection:

14 “(c) DEEMED PAID CREDIT DETERMINED WITHOUT
15 REGARD TO CERTAIN EXCLUSIONS FROM SUBPART F IN-
16 COME.—Solely for purposes of subsection (a), section
17 954(a)(1)(B) shall be applied by substituting ‘100 per-
18 cent’ for ‘50 percent’ in determining amounts included
19 under section 951(a)(1).”.

20 (b) EXCEPTION FROM FOREIGN BASE COMPANY
21 SALES INCOME FOR FOREIGN CORPORATIONS ELIGIBLE
22 FOR BENEFITS UNDER COMPREHENSIVE INCOME TAX
23 TREATIES.—Section 954(d) is amended by adding at the
24 end the following new paragraph:

25 “(5) EXCEPTION FOR FOREIGN CORPORATIONS
26 ELIGIBLE FOR BENEFITS UNDER COMPREHENSIVE

1 INCOME TAX TREATIES.—No portion of the gross in-
2 come of a controlled foreign corporation shall be
3 treated as foreign base company sales income if such
4 controlled foreign corporation is eligible as a quali-
5 fied resident for all of the benefits provided under a
6 comprehensive income tax treaty with the United
7 States.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years of foreign corpora-
10 tions beginning after December 31, 2014, and to taxable
11 years of United States shareholders in which or with which
12 such taxable years of foreign corporations end.

13 **SEC. 4203. INFLATION ADJUSTMENT OF DE MINIMIS EXCEP-**
14 **TION FOR FOREIGN BASE COMPANY INCOME.**

15 (a) IN GENERAL.—Paragraph (3) of section 954(b)
16 is amended by adding at the end the following new sub-
17 paragraph:

18 “(D) INFLATION ADJUSTMENT.—In the
19 case of any taxable year beginning after 2015,
20 the dollar amount in subparagraph (A)(ii) shall
21 be increased by an amount equal to—

22 “(i) such dollar amount, multiplied by

23 “(ii) the cost-of-living adjustment de-
24 termined under section 1(c)(2)(A) for the
25 calendar year in which the taxable year be-

1 gins, determined by substituting ‘calendar
2 year 2014’ for ‘calendar year 2012’ in
3 clause (ii) thereof.

4 Any increase determined under the preceding
5 sentence shall be rounded to the nearest mul-
6 tiple of \$50,000.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years of foreign corpora-
9 tions beginning after December 31, 2014, and to taxable
10 years of United States shareholders in which or with which
11 such taxable years of foreign corporations end.

12 **SEC. 4204. ACTIVE FINANCING EXCEPTION EXTENDED WITH**
13 **LIMITATION FOR LOW-TAXED FOREIGN IN-**
14 **COME.**

15 (a) EXTENSION OF ACTIVE FINANCING EXCEP-
16 TION.—

17 (1) IN GENERAL.—Paragraph (9) of section
18 954(h) is amended by striking “January 1, 2014”
19 and inserting “January 1, 2019”.

20 (2) EXEMPT INSURANCE INCOME.—Paragraph
21 (10) of section 953(e) is amended—

22 (A) by striking “January 1, 2014” and in-
23 serting “January 1, 2019”, and

24 (B) by striking “December 31, 2013” and
25 inserting “December 31, 2018”.

1 (b) LIMITATION FOR LOW-TAXED FOREIGN IN-
2 COME.—

3 (1) IN GENERAL.—Paragraph (1) of section
4 954(h) is amended to read as follows:

5 “(1) IN GENERAL.—For purposes of subsection
6 (c)(1), in the case of an eligible controlled foreign
7 corporation, foreign personal holding company in-
8 come shall not include—

9 “(A) qualified banking or financing income
10 which is subject to an effective rate of income
11 tax imposed by a foreign country which is at
12 least 50 percent of the maximum rate of tax
13 specified in section 11, and

14 “(B) 50 percent of any other qualified
15 banking or financing income of such eligible
16 controlled foreign corporation.”.

17 (2) INSURANCE BUSINESS INCOME.—Paragraph
18 (1) of section 954(i) is amended to read as follows:

19 “(1) IN GENERAL.—For purposes of subsection
20 (c)(1), in the case of a qualifying insurance com-
21 pany, foreign personal holding company income shall
22 not include—

23 “(A) any qualified insurance income which
24 is subject to an effective rate of income tax im-
25 posed by a foreign country which is at least 50

1 percent of the maximum rate of tax specified in
2 section 11, and

3 “(B) 50 percent of any other qualified in-
4 surance income of such qualifying insurance
5 company.”.

6 (3) PRESERVATION OF DEEMED PAID FOREIGN
7 TAX CREDIT ON HIGH-TAXED FOREIGN INCOME.—

8 Subsection (c) of section 960, as amended by the
9 preceding provisions of this Act, is amended by
10 striking “Solely for purposes of subsection (a)” and
11 all that following and inserting the following: “Solely
12 for purposes of subsection (a)—

13 “(1) section 954(a)(1)(B) shall be applied by
14 substituting ‘100 percent’ for ‘50 percent’, and

15 “(2) the exclusions under subsections (h)(1)(B)
16 and (i)(1)(B) of section 954 shall not apply,
17 in determining amounts included under section
18 951(a)(1).”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years of foreign corpora-
21 tions beginning after December 31, 2013, and to taxable
22 years of United States shareholders in which or with which
23 such taxable years of foreign corporations end.

1 **SEC. 4205. REPEAL OF INCLUSION BASED ON WITHDRAWAL**
2 **OF PREVIOUSLY EXCLUDED SUBPART F IN-**
3 **COME FROM QUALIFIED INVESTMENT.**

4 (a) IN GENERAL.—Subpart F of part III of sub-
5 chapter N of chapter 1 is amended by striking section 955.

6 (b) CONFORMING AMENDMENTS.—

7 (1)(A) Subparagraph (A) of section 951(a)(1),
8 as amended by this Act, is amended to read as fol-
9 lows:

10 “(A) his pro rata share (determined under
11 paragraph (2)) of the corporation’s subpart F
12 income for such year, and”.

13 (B) Paragraph (3) of section 851(b) is amended
14 by striking “section 951(a)(1)(A)(i)” in the flush
15 language at the end and inserting “section
16 951(a)(1)(A)”.

17 (C) Clause (i) of section 952(c)(1)(B) is amend-
18 ed by striking “section 951(a)(1)(A)(i)” and insert-
19 ing “section 951(a)(1)(A)”.

20 (D) Subparagraph (C) of section 953(c)(1) is
21 amended by striking “section 951(a)(1)(A)(i)” and
22 inserting “section 951(a)(1)(A)”.

23 (2) Subsection (a) of section 951 is amended by
24 striking paragraph (3).

1 (3) Subclause (II) of section 953(d)(4)(B)(iv) is
2 amended by striking “or amounts referred to in
3 clause (ii) or (iii) of section 951(a)(1)(A)”.

4 (4) Subsection (b) of section 964 is amended by
5 striking “, 955,”.

6 (5) Section 970 is amended by striking sub-
7 section (b).

8 (6) The table of sections for subpart F of part
9 III of subchapter N of chapter 1 is amended by
10 striking the item relating to section 955.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years of foreign corpora-
13 tions beginning after December 31, 2014, and to taxable
14 years of United States shareholders in which or with which
15 such taxable years of foreign corporations end.

16 **PART 2—PREVENTION OF BASE EROSION**

17 **SEC. 4211. FOREIGN INTANGIBLE INCOME SUBJECT TO**
18 **TAXATION AT REDUCED RATE; INTANGIBLE**
19 **INCOME TREATED AS SUBPART F INCOME.**

20 (a) FOREIGN BASE COMPANY INTANGIBLE INCOME
21 TREATED AS SUBPART F INCOME.—

22 (1) TREATMENT AS SUBPART F INCOME.—
23 Paragraph (1) of section 954(a), as amended by the
24 preceding provisions of this Act, is amended by re-
25 designating subparagraph (D) as subparagraph (E)

1 and by inserting after subparagraph (C) the fol-
2 lowing new subparagraph:

3 “(D) the foreign base company intangible
4 income for the taxable year (determined under
5 subsection (f) and reduced as provided in sub-
6 section (b)(5)), and”.

7 (2) FOREIGN BASE COMPANY INTANGIBLE IN-
8 COME DEFINED.—Section 954 of such Code is
9 amended by inserting after subsection (e) the fol-
10 lowing new subsection:

11 “(f) FOREIGN BASE COMPANY INTANGIBLE IN-
12 COME.—For purposes of this section—

13 “(1) IN GENERAL.—The term ‘foreign base
14 company intangible income’ means, with respect to
15 any corporation for any taxable year, the excess of—

16 “(A) so much of the adjusted gross income
17 of the corporation as exceeds 10 percent of the
18 corporation’s qualified business asset invest-
19 ment, over

20 “(B) the applicable percentage of such cor-
21 poration’s foreign personal holding company in-
22 come, foreign base company sales income, for-
23 eign base company services income, and foreign
24 base company oil related income.

1 “(2) APPLICABLE PERCENTAGE.—For purposes
2 of paragraph (1), the term ‘applicable percentage’
3 means, with respect to any corporation for any tax-
4 able year, the ratio (expressed as a percentage) of—
5 “(A) the excess described in paragraph
6 (1)(A), divided by
7 “(B) the adjusted gross income of the cor-
8 poration.
9 “(3) QUALIFIED BUSINESS ASSET INVEST-
10 MENT.—
11 “(A) IN GENERAL.—The term ‘qualified
12 business asset investment’ means, with respect
13 to any corporation for any taxable year, the ag-
14 gregate of the corporation’s adjusted bases (de-
15 termined as of the close of such taxable year
16 and after any adjustments with respect to such
17 taxable year) in specified tangible property—
18 “(i) used in a trade or business of the
19 corporation, and
20 “(ii) of a type with respect to which
21 a deduction is allowable under section 168.
22 “(B) DETERMINATION OF ADJUSTED
23 BASIS.—For purposes of subparagraph (A), the
24 adjusted basis in any property shall be deter-
25 mined without regard to any provision of this

1 title (or any other provision of law) which is en-
2 acted after the date of the enactment of this
3 section.

4 “(C) REGULATIONS.—The Secretary shall
5 issue such regulations or other guidance as the
6 Secretary determines appropriate to prevent the
7 avoidance of the purposes of this paragraph, in-
8 cluding regulations or other guidance which
9 provide for the treatment of property if—

10 “(i) such property is transferred, or
11 held, temporarily, or

12 “(ii) the avoidance of the purposes of
13 this paragraph is a factor in the transfer
14 or holding of such property.

15 “(4) ADJUSTED GROSS INCOME; SPECIFIED
16 TANGIBLE PROPERTY.—For purposes of this sub-
17 section—

18 “(A) ADJUSTED GROSS INCOME.—

19 “(i) IN GENERAL.—The term ‘ad-
20 justed gross income’ means, with respect
21 to any corporation, the gross income of
22 such corporation reduced by such corpora-
23 tion’s commodities gross income.

24 “(ii) COMMODITIES GROSS INCOME.—
25 The term ‘commodities gross income’

1 means, with respect to any corporation, the
2 gross income of such corporation which is
3 derived from commodities which are pro-
4 duced or extracted by such corporation.

5 “(B) SPECIFIED TANGIBLE PROPERTY.—
6 The term ‘specified tangible property’ means
7 any tangible property unless such property is
8 used in the production of commodities gross in-
9 come. In the case of property which is used in
10 the production of commodities gross income and
11 other gross income, such property shall be
12 treated as specified tangible property in the
13 same proportion that the adjusted gross income
14 produced with respect to such property bears to
15 the total gross income produced with respect to
16 such property.

17 “(C) COMMODITY.—The term ‘commodity’
18 means any commodity described in section
19 475(e)(2).”.

20 (3) APPLICATION ONLY TO FOREIGN BASE COM-
21 PANY INTANGIBLE INCOME SUBJECT TO A LOW FOR-
22 EIGN EFFECTIVE RATE OF TAX.—Paragraph (2) of
23 section 954(a), as amended by preceding provisions
24 of this Act, is amended by inserting “or foreign base

1 company intangible income” after “foreign base
2 company sales income”.

3 (4) CONFORMING AMENDMENT.—Paragraph (5)
4 of section 954(b) is amended by inserting “the for-
5 eign base company intangible income,” before “and
6 the foreign base company oil related income”.

7 (b) DEDUCTION FOR FOREIGN INTANGIBLE IN-
8 COME.—

9 (1) IN GENERAL.—Part VIII of subchapter B
10 of chapter 1 is amended by adding at the end the
11 following new section:

12 **“SEC. 250. FOREIGN INTANGIBLE INCOME.**

13 “(a) IN GENERAL.—In the case of a domestic cor-
14 poration for any taxable year, there shall be allowed as
15 a deduction an amount equal to the applicable percentage
16 of the lesser of—

17 “(1) the sum of—

18 “(A) the foreign percentage multiplied by
19 the net imputed intangible income of such do-
20 mestic corporation for such taxable year, plus

21 “(B) in the case of a domestic corporation
22 which is a United States shareholder with re-
23 spect to any controlled foreign corporation, the
24 foreign percentage (determined with respect to
25 such controlled foreign corporation) multiplied

1 by any foreign base company intangible income
2 (as defined in section 954(f)) of such controlled
3 foreign corporation which is included in the
4 gross income of such domestic corporation
5 under section 951 for such taxable year, or

6 “(2) taxable income of such domestic corpora-
7 tion (determined without regard to this section) for
8 the taxable year.

9 “(b) NET IMPUTED INTANGIBLE INCOME.—For pur-
10 poses of this subsection, the term ‘net imputed intangible
11 income’ means the excess of—

12 “(1) the excess described in section
13 954(f)(1)(A), over

14 “(2) the deductions properly allocable to the
15 amount described in paragraph (1).

16 “(c) FOREIGN PERCENTAGE.—For purposes of this
17 section—

18 “(1) IN GENERAL.—The term ‘foreign percent-
19 age’ means, with respect to any corporation for any
20 taxable year, the ratio (expressed as a percentage)
21 of—

22 “(A) the foreign-derived adjusted gross in-
23 come of such corporation for such taxable year,
24 over

1 “(B) the adjusted gross income of such
2 corporation for such taxable year.

3 “(2) FOREIGN-DERIVED ADJUSTED GROSS IN-
4 COME.—

5 “(A) IN GENERAL.—The term ‘foreign-de-
6 rived adjusted gross income’ means, with re-
7 spect to any corporation for any taxable year,
8 any adjusted gross income of such corporation
9 which is derived in connection with—

10 “(i) property which is sold for use,
11 consumption, or disposition outside the
12 United States, or

13 “(ii) services provided with respect to
14 persons or property located outside the
15 United States.

16 “(B) SPECIAL RULES.—

17 “(i) ULTIMATE DISPOSITION.—Prop-
18 erty shall not be treated as sold for use,
19 consumption, or disposition outside the
20 United States if the taxpayer knew, or had
21 reason to know, that such property would
22 be ultimately sold for use, consumption, or
23 disposition in the United States.

24 “(ii) SALES TO RELATED PARTIES.—
25 If property is sold to a related party, such

1 sale shall not be treated as for use, con-
2 sumption or disposition outside the United
3 States unless—

4 “(I) such property is ultimately
5 sold for use, consumption or disposi-
6 tion outside the United States, or

7 “(II) such property is resold to
8 an unrelated party outside the United
9 States and no related party knew or
10 had reason to know that such prop-
11 erty would be ultimately sold for use,
12 consumption, or disposition in the
13 United States.

14 “(iii) APPLICATION TO SERVICES.—
15 Rules similar to the rules of clauses (i) and
16 (ii) shall apply with respect to services de-
17 scribed in subparagraph (A)(ii).

18 “(C) RELATED PARTY.—For purposes of
19 this paragraph, the term ‘related party’ means
20 any member of an affiliated group as defined in
21 section 1504(a), determined—

22 “(i) by substituting ‘more than 50
23 percent’ for ‘at least 80 percent’ each place
24 it appears, and

1 “(ii) without regard to paragraphs (2)
2 and (3) of section 1504(b).

3 Any person (other than a corporation) shall be
4 treated as a member of such group if such per-
5 son is controlled by members of such group (in-
6 cluding any entity treated as a member of such
7 group by reason of this sentence) or controls
8 any such member. For purposes of the pre-
9 ceding sentence, control shall be determined
10 under the rules of section 954(d)(3).

11 “(3) ADJUSTED GROSS INCOME.—The term ‘ad-
12 justed gross income’ has the meaning given such
13 term by section 954(f)(4).

14 “(d) APPLICABLE PERCENTAGE.—For purposes of
15 this section, the term ‘applicable percentage’ means, with
16 respect to any taxable year of the domestic corporation
17 referred to in subsection (a), the percentage determined
18 in accordance with the following table:

“In the case of any taxable year beginning in:	The applicable percentage is:
2015	55 percent
2016	52 percent
2017	48 percent
2018	44 percent
2019 or thereafter	40 percent.

19 “(e) REGULATIONS.—The Secretary may prescribe
20 such regulations or other guidance as may be necessary
21 or appropriate to carry out the provisions of this section.”.

1 (2) CONFORMING AMENDMENTS.—

2 (A) Clause (i) of section 163(j)(6)(A), as
3 amended by the preceding provisions of this
4 Act, is amended by striking “and” at the end
5 of subclause (II) and by adding at the end the
6 following new subclause:

7 “(IV) any deduction allowable
8 under section 250, and”.

9 (B) Subparagraph (C) of section 170(b)(2)
10 is amended by striking “and” at the end of
11 clause (iv), by redesignating clause (v) as clause
12 (vi), and by inserting after clause (iv) the fol-
13 lowing new clause:

14 “(v) section 250, and”.

15 (C) Subsection (d) of section 172, as
16 amended by the preceding provisions of this
17 Act, is amended by adding at the end the fol-
18 lowing new paragraph:

19 “(7) DEDUCTION FOR FOREIGN INTANGIBLE
20 INCOME.—The deduction under section 250 shall not
21 be allowed.”.

22 (D) Paragraph (1) of section 246(b) is
23 amended by striking “and 247” and inserting
24 “247, and 250”.

1 (E) Clause (iii) of section 469(i)(3)(D), as
2 amended by the preceding provisions of this
3 Act, is amended by striking “and 222” and in-
4 serting “222, and 250”.

5 (c) EFFECTIVE DATE.—

6 (1) TREATMENT AS SUBPART F INCOME.—The
7 amendments made by subsection (a) shall apply to
8 taxable years of foreign corporations beginning after
9 December 31, 2014, and to taxable years of United
10 States shareholders in which or with which such tax-
11 able years of foreign corporations end.

12 (2) DEDUCTION FOR FOREIGN INTANGIBLE IN-
13 COME.—The amendments made by subsection (b)
14 shall apply to taxable years beginning after Decem-
15 ber 31, 2014.

16 **SEC. 4212. DENIAL OF DEDUCTION FOR INTEREST EXPENSE**
17 **OF UNITED STATES SHAREHOLDERS WHICH**
18 **ARE MEMBERS OF WORLDWIDE AFFILIATED**
19 **GROUPS WITH EXCESS DOMESTIC INDEBTED-**
20 **NESS.**

21 (a) IN GENERAL.—Section 163 is amended by redesh-
22 ignating subsection (n) as subsection (o) and by inserting
23 after subsection (m) the following new subsection:

24 “(n) DISALLOWANCE OF DEDUCTION FOR INTEREST
25 EXPENSE OF UNITED STATES SHAREHOLDERS WHICH

1 ARE MEMBERS OF WORLDWIDE AFFILIATED GROUPS
2 WITH EXCESS DOMESTIC INDEBTEDNESS.—

3 “(1) IN GENERAL.—In the case of any domestic
4 corporation which is a United States shareholder (as
5 defined in section 951(b)) with respect to any for-
6 eign corporation both of which are members of the
7 same worldwide affiliated group, the deduction al-
8 lowed under this chapter for interest paid or accrued
9 by such domestic corporation during the taxable year
10 shall be reduced by the lesser of—

11 “(A) the product of—

12 “(i) the net interest expense of such
13 domestic corporation, multiplied by

14 “(ii) the debt-to-equity differential
15 percentage of such worldwide affiliated
16 group, or

17 “(B) the excess (if any) of—

18 “(i) such net interest expense, over

19 “(ii) 40 percent of the adjusted tax-
20 able income (as defined in subsection
21 (j)(6)(A)) of such domestic corporation.

22 “(2) CARRYFORWARD.—Any amount disallowed
23 under paragraph (1) for any taxable year shall be
24 treated as interest paid or accrued in the succeeding

1 taxable year (and shall not be treated as disqualified
2 interest for purposes of applying subsection (j)).

3 “(3) DEBT-TO-EQUITY DIFFERENTIAL PER-
4 CENTAGE.—

5 “(A) IN GENERAL.—For purposes of this
6 subsection, the term ‘debt-to-equity differential
7 percentage’ means, with respect to any world-
8 wide affiliated group, the percentage which the
9 excess domestic indebtedness of such group
10 bears to the total indebtedness of the domestic
11 corporations which are members of such group.

12 “(B) EXCESS DOMESTIC INDEBTED-
13 NESS.—For purposes of subparagraph (A), the
14 term ‘excess domestic indebtedness’ means, with
15 respect to any worldwide affiliated group, the
16 excess (if any) of—

17 “(i) the total indebtedness of the do-
18 mestic corporations which are members of
19 such group, over

20 “(ii) 110 percent of the amount which
21 the total indebtedness of such domestic
22 corporations would be if the ratio of such
23 indebtedness to the total equity of such do-
24 mestic corporations equaled the ratio
25 which—

1 “(I) the total indebtedness of
2 such group, bears to

3 “(II) the total equity of such
4 group.

5 “(C) TOTAL EQUITY.—For purposes of
6 subparagraph (B), the term ‘total equity’
7 means, with respect to one or more corpora-
8 tions, the excess (if any) of—

9 “(i) the money and all other assets of
10 such corporations, over

11 “(ii) the total indebtedness of such
12 corporations.

13 “(D) SPECIAL RULES FOR DETERMINING
14 DEBT AND EQUITY.—For purposes of this para-
15 graph—

16 “(i) APPLICATION OF CERTAIN GEN-
17 ERAL RULES.—Rules similar to the rules
18 of clauses (i), (ii), and (iii) of subsection
19 (j)(2)(C) shall apply.

20 “(ii) INTRAGROUP DEBT AND EQUITY
21 INTERESTS DISREGARDED.—The total in-
22 debtedness, and the assets, of any group of
23 corporations shall be determined by treat-
24 ing all members of such group as one cor-
25 poration.

1 “(iii) DETERMINATION OF ASSETS OF
2 DOMESTIC GROUP.—The assets of the do-
3 mestic corporations which are members of
4 any worldwide affiliated group shall be de-
5 termined by disregarding any interest held
6 by any such domestic corporation in any
7 foreign corporation which is a member of
8 such group.

9 “(4) OTHER DEFINITIONS.—For purposes of
10 this subsection—

11 “(A) WORLDWIDE AFFILIATED GROUP.—
12 The term ‘worldwide affiliated group’ has the
13 meaning which would be given such term by
14 section 864(f)(1)(C) if section 1504(a) were ap-
15 plied by substituting ‘more than 50 percent’ for
16 ‘at least 80 percent’ each place it appears.

17 “(B) NET INTEREST EXPENSE.—The term
18 ‘net interest expense’ has the meaning given
19 such term by subsection (j)(6)(B).

20 “(5) TREATMENT OF AFFILIATED GROUP.—For
21 purposes of this subsection, all members of the same
22 affiliated group (within the meaning of section
23 1504(a) applied by substituting ‘more than 50 per-
24 cent’ for ‘at least 80 percent’ each place it appears)
25 shall be treated as 1 taxpayer.

1 “(6) REGULATIONS.—The Secretary shall pre-
2 scribe such regulations or other guidance as may be
3 appropriate to carry out the purposes of this sub-
4 section, including regulations or other guidance—

5 “ (A) to prevent the avoidance of the pur-
6 poses of this subsection,

7 “ (B) providing such adjustments in the
8 case of corporations which are members of an
9 affiliated group as may be appropriate to carry
10 out the purposes of this subsection,

11 “ (C) providing for the coordination of this
12 subsection with section 884, and

13 “ (D) providing for the reallocation of
14 shares of partnership indebtedness, or distribu-
15 tive shares of the partnership’s interest income
16 or interest expense.”.

17 (b) COORDINATION WITH LIMITATION ON RELATED
18 PARTY INDEBTEDNESS.—Paragraph (1) of section 163(j)
19 is amended by adding at the end the following new sub-
20 paragraph:

21 “ (C) COORDINATION WITH LIMITATION ON
22 EXCESS DOMESTIC INDEBTEDNESS.—The
23 amount disallowed under subparagraph (A)
24 with respect to any corporation for any taxable
25 year shall be reduced by any amount disallowed

1 under subsection (n)(1) with respect to such
2 corporation for such taxable year.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2014.

6 **TITLE V—TAX EXEMPT ENTITIES**

7 **Subtitle A—Unrelated Business**

8 **Income Tax**

9 **SEC. 5001. CLARIFICATION OF UNRELATED BUSINESS IN-** 10 **COME TAX TREATMENT OF ENTITIES TREAT-** 11 **ED AS EXEMPT FROM TAXATION UNDER SEC-** 12 **TION 501(a).**

13 (a) IN GENERAL.—Subparagraph (A) of section
14 511(a)(2) is amended by adding at the end the following:
15 “For purposes of the preceding sentence, an organization
16 shall not fail to be treated as exempt from taxation under
17 this subtitle by reason of section 501(a) solely because
18 such organization is also so exempt, or excludes amounts
19 from gross income, by reason of any other provision of
20 this title.”.

21 (b) CLERICAL AMENDMENT.—The heading for sub-
22 paragraph (A) of section 511(a)(2) is amended to read
23 as follows: “ORGANIZATIONS EXEMPT FROM TAXATION BY
24 REASON OF SECTION 501(a).”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 5002. NAME AND LOGO ROYALTIES TREATED AS UNRE-**
5 **LATED BUSINESS TAXABLE INCOME.**

6 (a) IN GENERAL.—Section 513 is amended by adding
7 at the end the following new subsection:

8 “(k) NAME AND LOGO ROYALTIES.—Any sale or li-
9 censing by an organization of any name or logo of the
10 organization (including any trademark or copyright relat-
11 ing to such name or logo) shall be treated as an unrelated
12 trade or business regularly carried on by such organiza-
13 tion.”.

14 (b) CALCULATION OF UNRELATED BUSINESS TAX-
15 ABLE INCOME.—Subsection (b) of section 512 is amended
16 by adding at the end the following new paragraph:

17 “(20) SPECIAL RULE FOR NAME AND LOGO
18 ROYALTIES.—Notwithstanding paragraph (1), (2),
19 (3), or (5), any income derived from any sale or li-
20 censing described in section 513(k) shall be included
21 as an item of gross income derived from an unre-
22 lated trade or business.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2014.

1 **SEC. 5003. UNRELATED BUSINESS TAXABLE INCOME SEPA-**
2 **RATELY COMPUTED FOR EACH TRADE OR**
3 **BUSINESS ACTIVITY.**

4 (a) IN GENERAL.—Subsection (a) of section 512 is
5 amended by adding at the end the following new para-
6 graph:

7 “(6) SPECIAL RULE FOR ORGANIZATION WITH
8 MORE THAN 1 UNRELATED TRADE OR BUSINESS.—
9 In the case of any organization with more than 1
10 unrelated trade or business—

11 “(A) unrelated business taxable income
12 shall be computed separately with respect to
13 each such trade or business and without regard
14 to subsection (b)(12),

15 “(B) the unrelated business taxable income
16 of such organization shall be the sum of the un-
17 related business taxable income so computed
18 with respect to each such trade or business, less
19 a specific deduction under subsection (b)(12),
20 and

21 “(C) for purposes of subparagraph (B),
22 unrelated business taxable income with respect
23 to any such trade or business shall not be less
24 than zero, and

25 “(D) the net operating loss deduction shall
26 only be allowed with respect to the trade or

1 business from which the net operating loss
2 arose.”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except to the extent pro-
5 vided in paragraph (2), the amendment made by this
6 section shall apply to taxable years beginning after
7 December 31, 2014.

8 (2) NET OPERATING LOSSES.—

9 (A) CERTAIN CARRYOVERS.—In the case of
10 any net operating loss arising in a taxable year
11 beginning before January 1, 2015, that is car-
12 ried over to a taxable year beginning on or after
13 such date, section 512(a)(6)(D) of the Internal
14 Revenue Code of 1986, as added by this Act,
15 shall not apply.

16 (B) CERTAIN CARRYBACKS.—In the case
17 of any net operating loss arising in a taxable
18 year beginning after December 31, 2014, and
19 carried back to any taxable year beginning on
20 or before such date, in computing unrelated
21 business taxable income of an organization
22 under section 512(a) of such Code for the tax-
23 able year, the net operating loss deduction shall
24 be allowed only with respect to the trade or

1 business from which the net operating loss
2 arose.

3 **SEC. 5004. EXCLUSION OF RESEARCH INCOME LIMITED TO**
4 **PUBLICLY AVAILABLE RESEARCH.**

5 (a) IN GENERAL.—Paragraph (9) of section 512(b)
6 is amended by striking “from research” and inserting
7 “from such research”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2014.

11 **SEC. 5005. PARITY OF CHARITABLE CONTRIBUTION LIMITA-**
12 **TION BETWEEN TRUSTS AND CORPORATIONS.**

13 (a) IN GENERAL.—Paragraph (11) of section 512(b)
14 is amended by striking the second sentence and inserting
15 the following: “The deduction allowed by this paragraph
16 shall not exceed 10 percent of the unrelated business tax-
17 able income computed without the benefit of this para-
18 graph.”

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to taxable years beginning after
21 December 31, 2014.

22 **SEC. 5006. INCREASED SPECIFIC DEDUCTION.**

23 (a) IN GENERAL.—Paragraph (12) of section 512(b)
24 is amended by striking “\$1,000” each place it appears and
25 inserting “\$10,000”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **SEC. 5007. REPEAL OF EXCLUSION OF GAIN OR LOSS FROM**
5 **DISPOSITION OF DISTRESSED PROPERTY.**

6 (a) IN GENERAL.—Subsection (b) of section 512 is
7 amended by striking paragraph (16).

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to property acquired after Decem-
10 ber 31, 2014.

11 **SEC. 5008. QUALIFIED SPONSORSHIP PAYMENTS.**

12 (a) REPEAL OF USE OR ACKNOWLEDGMENT OF
13 PRODUCT LINES FOR QUALIFIED SPONSORSHIP PAY-
14 MENTS.—Subparagraphs (A) and (B)(ii)(I) of section
15 513(i)(2) are each amended by striking “(or product
16 lines)”.

17 (b) USE OR ACKNOWLEDGMENT LIMITED IN CASE
18 OF CERTAIN EVENTS.—Subparagraph (B) of section
19 513(i)(2) is amended by adding at the end the following
20 new clause:

21 (iii) USE OR ACKNOWLEDGMENT
22 LIMITED IN CASE OF CERTAIN EVENTS.—
23 In the case of an event with respect to
24 which an organization receives an aggre-
25 gate amount of qualified sponsorship pay-

1 ments greater than \$25,000, a payment
2 shall not be treated as a qualified sponsor-
3 ship payment for purposes of paragraph
4 (1) unless the use or acknowledgment of
5 the sponsor's name or logo appears with,
6 and in substantially the same manner as,
7 the names of a significant portion of other
8 donors to the organization. For purposes
9 of the preceding sentence, whether a num-
10 ber of donors is a significant portion shall
11 be determined based on the total number
12 of donors and the total contributed with
13 respect to the event, but in no event shall
14 fewer than 2 other donors be treated as a
15 significant portion of other donors.”.

16 (c) CLERICAL AMENDMENT.—The heading for clause
17 (ii) of section 513(i)(2)(B) is amended to read as follows:
18 “PERIODICALS AND QUALIFIED CONVENTION AND TRADE
19 SHOW ACTIVITIES.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 2014.

Subtitle B—Penalties**2 SEC. 5101. INCREASE IN INFORMATION RETURN PEN-**
3 ALTIES.

4 (a) FAILURE TO FILE RETURN.—

5 (1) ORGANIZATION.—Subparagraph (A) of sec-
6 tion 6652(c)(1) is amended—

7 (A) by striking “\$20” each place it ap-
8 pears and inserting “\$40”,

9 (B) by striking “\$100” and inserting
10 “\$200”.

11 (2) MANAGERS.—Clause (ii) of section
12 6652(c)(1)(B) is amended by striking “\$10” and in-
13 serting “\$20”.

14 (b) FAILURE TO MAKE RETURNS, REPORTS, AND
15 APPLICATIONS AVAILABLE FOR PUBLIC INSPECTION.—
16 Subparagraphs (C) and (D) of section 6652(c)(1) are each
17 amended by striking “\$20” and inserting “\$40”.

18 (c) FAILURE TO FILE RETURNS UNDER SECTION
19 6034 OR 6043.—Paragraph (2) of section 6652(c) is
20 amended—

21 (1) by striking “\$10” each place it appears in
22 subparagraphs (A) and (B) and inserting “\$20”,
23 and

1 (2) by striking “substituting ‘\$100’ for ‘\$20,’”
2 in subparagraph (C)(ii) and inserting “substituting
3 ‘\$200’ for ‘\$40,’”.

4 (d) FAILURE TO FILE DISCLOSURE UNDER SECTION
5 6033(a)(2).—

6 (1) ORGANIZATION.—Subparagraph (A) of sec-
7 tion 6652(c)(3) is amended by striking “\$100” and
8 inserting “\$200”.

9 (2) MANAGERS.—Subparagraph (B) of section
10 6652(c)(3) is amended by striking “\$100” and in-
11 serting “\$200”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply with respect to information returns
14 required to be filed on or after January 1, 2015.

15 **SEC. 5102. MANAGER-LEVEL ACCURACY-RELATED PENALTY**
16 **ON UNDERPAYMENT OF UNRELATED BUSI-**
17 **NESS INCOME TAX.**

18 (a) IN GENERAL.—Section 6662 is amended by add-
19 ing at the end the following new subsection:

20 “(k) MANAGER-LEVEL PENALTY FOR SUBSTANTIAL
21 UNDERPAYMENT OF UNRELATED BUSINESS INCOME
22 TAX.—

23 “(1) IN GENERAL.—In the case of any substan-
24 tial underpayment of income tax which is attrib-
25 utable to the tax imposed by section 511 on the un-

1 related business taxable income of an organization
2 for the taxable year, there is hereby imposed a tax
3 with respect to such organization an amount equal
4 to 5 percent of such underpayment to which the un-
5 derpayment relates. Such tax shall be paid by any
6 manager of the organization.

7 “(2) MANAGER.—For purposes of this sub-
8 section, the term ‘manager’ means any officer, direc-
9 tor, trustee, employee, or other individual who is
10 under a duty to perform an act in respect of which
11 the underpayment relates.

12 “(3) JOINT AND SEVERAL LIABILITY.—If more
13 than one person is liable under paragraph (1) with
14 respect to an underpayment, all such persons shall
15 be jointly and severally liable under such paragraph
16 with respect to such underpayment

17 “(4) LIMIT.—With respect to any substantial
18 underpayment of income tax for a taxable year, the
19 maximum amount of the tax added by paragraph (1)
20 shall not exceed \$20,000.”.

21 (b) REPORTABLE TRANSACTIONS.—Section 6662A is
22 amended by adding at the end the following new sub-
23 section:

24 “(f) MANAGER-LEVEL PENALTY IN CASE OF UNRE-
25 LATED BUSINESS INCOME TAX.—

1 “(1) IN GENERAL.—In the case of any portion
2 of a reportable transaction understatement of the
3 tax imposed by section 511 to which this section ap-
4 plies, there is hereby imposed a tax in an amount
5 equal to 10 percent of such portion of the under-
6 payment to which the reportable transaction under-
7 statement occurs. Such tax shall be paid by any
8 manager of the organization.

9 “(2) MANAGER.—For purposes of this sub-
10 section, the term ‘manager’ means any officer, direc-
11 tor, trustee, employee, or other individual who is
12 under a duty to perform an act in respect of which
13 such understatement occurs.

14 “(3) JOINT AND SEVERAL LIABILITY.—If more
15 than one person is liable under paragraph (1) with
16 respect to an understatement, all such persons shall
17 be jointly and severally liable under such paragraph
18 with respect to such understatement.

19 “(4) LIMIT.—With respect to any understate-
20 ment of tax to which this section applies, the max-
21 imum amount of the tax added by paragraph (1)
22 shall not exceed \$40,000”.

23 (c) COORDINATION.—Section 6662 is amended—

24 (1) by striking the flush matter at the end of
25 subsection (b), and

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

3 “(1) COORDINATION WITH OTHER PENALTIES.—
4 This section shall not apply to any portion of an under-
5 payment on which a penalty is imposed under section
6 6663. Except as provided in paragraph (1) or (2)(B) of
7 section 6662A(e), this section shall not apply to the por-
8 tion of any underpayment which is attributable to a re-
9 portable transaction understatement on which a penalty
10 is imposed under section 6662A.”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2014.

14 **Subtitle C—Excise Taxes**

15 **SEC. 5201. MODIFICATION OF INTERMEDIATE SANCTIONS.**

16 (a) ORGANIZATION LEVEL TAX.—Subsection (a) of
17 section 4958 is amended by adding at the end the fol-
18 lowing new paragraph:

19 “(3) ON THE ORGANIZATION.—In any case in
20 which a tax is imposed by paragraph (1), there is
21 hereby imposed on the organization a tax equal to
22 10 percent of the excess benefit.”.

23 (b) MINIMUM STANDARDS OF ORGANIZATION DUE
24 DILIGENCE.—Subsection (d) of section 4958 is amended
25 by adding at the end the following new paragraph:

1 “(3) MINIMUM STANDARDS OF ORGANIZATION
2 DUE DILIGENCE.—

3 “(A) IN GENERAL.—Subsection (a)(3)
4 shall not apply to a transaction, if—

5 “(i) the organization establishes that
6 the minimum standards of due diligence
7 described in subparagraph (B) were met
8 with respect to the transaction, or

9 “(ii) the organization establishes to
10 the satisfaction of the Secretary that such
11 other reasonable procedures were used to
12 ensure that no excess benefit was provided.

13 “(B) MINIMUM STANDARDS.—An organiza-
14 tion shall be treated as satisfying the minimum
15 standards of due diligence described in this sub-
16 paragraph with respect to any transaction, if—

17 “(i) the transaction was approved in
18 advance by an authorized body of the orga-
19 nization composed entirely of individuals
20 who did not have a conflict of interest with
21 respect to the transaction,

22 “(ii) the authorized body obtained and
23 relied upon appropriate data as to com-
24 parability prior to approval of the trans-
25 action, and

1 “(iii) the authorizing body adequately
2 and concurrently documented the basis for
3 approving the transaction.

4 “(C) NO PRESUMPTION AS TO REASON-
5 ABLENESS.—Meeting the requirements of
6 clause (i) or (ii) of subparagraph (A) with re-
7 spect to a transaction shall not give rise to a
8 presumption of reasonableness for purposes of
9 the taxes imposed by paragraphs (1) or (2) of
10 subsection (a) and shall not, by itself, support
11 a conclusion that a manager did not act know-
12 ingly for purposes of subsection (a)(2).”.

13 (c) REPEAL OF EXCEPTION FOR MANAGER RELI-
14 ANCE ON PROFESSIONAL ADVICE.—Section 4958 is
15 amended by adding at the end the following new sub-
16 section:

17 “(g) NO SAFE HARBOR FOR RELIANCE ON PROFES-
18 SIONAL ADVICE.—An organization manager’s reliance on
19 a written opinion of a professional with respect to elements
20 of a transaction within the professional’s expertise shall
21 not, by itself, preclude the manager from being treated
22 as participating in the transaction knowingly.”.

23 (d) ATHLETIC COACHES AND INVESTMENT MAN-
24 AGERS TREATED AS DISQUALIFIED PERSONS.—

25 (1) ATHLETIC COACHES.—

1 (A) IN GENERAL.—Paragraph (1) of sec-
2 tion 4958(f) is amended by striking “and” at
3 the end of subparagraph (E), by striking the
4 period at the end of subparagraph (F) and in-
5 serting “, and”, and by adding at the end the
6 following new subparagraph:

7 “(G) any person who performs services as
8 an athletic coach for the organization.”.

9 (B) FAMILY MEMBERS.—Subparagraph
10 (B) of section 4958(f)(1) is amended by insert-
11 ing “or (G)” after “subparagraph (A)”.

12 (2) INVESTMENT ADVISORS.—

13 (A) IN GENERAL.—Subparagraph (F) of
14 section 4958(f)(1) is amended—

15 (i) by striking “which involves a spon-
16 soring organization (as defined in section
17 4966(d)(1)),”, and

18 (ii) by striking “such sponsoring orga-
19 nization (as so defined)” and inserting
20 “the organization”.

21 (B) INVESTMENT ADVISOR DEFINITION.—
22 Subparagraph (B) of section 4958(f)(8) is
23 amended to read as follows:

1 “(B) INVESTMENT ADVISOR DEFINED.—
2 For purposes of subparagraph (A), the term
3 ‘investment advisor’ means—

4 “(i) with respect to any organization,
5 any person who is compensated by such or-
6 ganization and is primarily responsible for
7 managing the investment of, or providing
8 investment advice with respect to, assets of
9 such organization, and

10 “(ii) with respect to any sponsoring
11 organization (as defined in section
12 4966(d)(1)), any person (other than an
13 employee of such organization) com-
14 pensated by such organization for man-
15 aging the investment of, or providing in-
16 vestment advice with respect to, assets
17 maintained in donor advised funds (as de-
18 fined in section 4966(d)(2)) owned by such
19 organization.”.

20 (e) APPLICATION TO UNIONS AND TRADE ASSOCIA-
21 TIONS.—Paragraph (1) of section 4958(e) is amended by
22 inserting “(5), (6),” after “(4),”.

23 (f) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 2014.

1 **SEC. 5202. MODIFICATION OF TAXES ON SELF-DEALING.**

2 (a) ORGANIZATION LEVEL TAX.—Subsection (a) of
3 section 4941 is amended by adding at the end the fol-
4 lowing new paragraph:

5 “(3) ON THE FOUNDATION.—In any case in
6 which a tax is imposed by paragraph (1), there is
7 hereby imposed on the foundation a tax equal to 2.5
8 percent (10 percent in the case payment of com-
9 pensation) of the amount involved with respect to
10 the act of self-dealing for each year (or part thereof)
11 in the taxable period.”.

12 (b) REPEAL OF EXCEPTION FOR MANAGER RELI-
13 ANCE ON ADVICE FROM COUNSEL.—Section 4941 is
14 amended by adding at the end the following new sub-
15 section:

16 “(f) NO SAFE HARBOR FOR RELIANCE ON ADVICE
17 OF COUNSEL.—A foundation manager’s reliance on a
18 written legal opinion by legal counsel that an act is not
19 an act of self-dealing shall not, by itself, preclude the man-
20 ager from being treated as participating in the act know-
21 ingly.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2014.

1 **SEC. 5203. EXCISE TAX ON FAILURE TO DISTRIBUTE WITH-**
2 **IN 5 YEARS CONTRIBUTION TO DONOR AD-**
3 **vised FUND.**

4 (a) IN GENERAL.—Subchapter G of chapter 42 is
5 amended by adding at the end the following new section:

6 **“SEC. 4968. FAILURE TO DISTRIBUTE CONTRIBUTIONS**
7 **WITHIN 5 YEARS.**

8 “(a) IN GENERAL.—In the case of a contribution
9 which is held in a donor advised fund, there is hereby im-
10 posed a tax equal to 20 percent of so much of the portion
11 of such contribution as has not been distributed by the
12 sponsoring organization in an eligible distribution before
13 the beginning of the 6th (or succeeding) taxable year be-
14 ginning after the taxable year during which such contribu-
15 tion was made. The tax imposed by this subsection shall
16 be paid by such sponsoring organization.

17 “(b) TREATMENT OF DISTRIBUTIONS.—For purposes
18 of this section—

19 “(1) ELIGIBLE DISTRIBUTION.—The term ‘eli-
20 gible distribution’ means any distribution to an orga-
21 nization described in section 170(b)(1)(A) (other
22 than an organization described in section 509(a)(3)
23 or any fund or account described in section
24 4966(d)(2).

25 “(2) ACCOUNTING.—Distributions shall be
26 treated as made from contributions (and any earn-

1 ings attributable thereto) on a first-in, first-out
2 basis.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-
4 tions for subchapter G of chapter 42 is amended by adding
5 at the end the following new item:

“Sec. 4968. Failure to distribute contributions within 5 years.”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the amendments made by this section
9 shall apply to contributions made after December
10 31, 2014.

11 (2) TRANSITION RULE.—In the case of any con-
12 tribution—

13 (A) which was made before January 1,
14 2015, and

15 (B) any portion of which (including any
16 earnings attributable thereto) is held in a donor
17 advised fund on such date,
18 such portion shall be treated as contributed on such
19 date.

20 **SEC. 5204. SIMPLIFICATION OF EXCISE TAX ON PRIVATE**
21 **FOUNDATION INVESTMENT INCOME.**

22 (a) RATE REDUCTION.—Subsection (a) of section
23 4940 is amended by striking “2 percent” and inserting
24 “1 percent”.

1 (b) REPEAL OF SPECIAL RULES FOR CERTAIN PRI-
2 VATE FOUNDATIONS.—Section 4940 is amended by strik-
3 ing subsections (d) and (e).

4 (c) CONFORMING AMENDMENT.—Section
5 4945(d)(4)(A) is amended by striking clause (iii) and by
6 inserting “or” at the end of clause (i).

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2014.

10 **SEC. 5205. REPEAL OF EXCEPTION FOR PRIVATE OPER-**
11 **ATING FOUNDATION FAILURE TO DIS-**
12 **TRIBUTE INCOME.**

13 (a) IN GENERAL.—Subsection (a) of section 4942 is
14 amended—

15 (1) by striking “a private foundation—” and all
16 that follows through “(2) to the extent” and insert-
17 ing “a private foundation to the extent”, and

18 (2) by redesignating subparagraphs (A), (B),
19 (C), and (D) as paragraphs (1), (2), (3), and (4),
20 respectively, and by moving such paragraphs, as so
21 redesignated, two ems to the left.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 4942(j) is amended by striking
24 paragraphs (3), (4), and (5).

1 (2) Section 170(b)(1)(F)(i) is amended by
2 striking “(as defined in section 4942(j)(3))”,

3 (3) Section 170(b)(1) is amended by adding at
4 the end the following new subparagraphs:

5 “(H) PRIVATE OPERATING FOUNDA-
6 TION.—For purposes of this paragraph, the
7 term ‘private operating foundation’ means any
8 organization—

9 “(i) which makes qualifying distribu-
10 tions (within the meaning of paragraph (1)
11 or (2) of section 4942(g)) directly for the
12 active conduct of the activities constituting
13 the purpose or function for which it is or-
14 ganized and operated equal to substantially
15 all of the lesser of—

16 “(I) its adjusted net income (as
17 defined in subsection section 4942(f)),

18 or

19 “(II) its minimum investment re-
20 turn, and

21 “(ii)(I) substantially more than half of
22 the assets of which are devoted directly to
23 such activities or to functionally related
24 businesses, or to both, or are stock of a
25 corporation which is controlled by the

1 foundation and substantially all of the as-
2 sets of which are so devoted,

3 “(II) which normally makes qualifying
4 distributions (within the meaning of para-
5 graph (1) or (2) of section 4942(g)) di-
6 rectly for the active conduct of the activi-
7 ties constituting the purpose or function
8 for which it is organized and operated in
9 an amount not less than two-thirds of its
10 minimum investment return (as defined in
11 section 4942(e)), or

12 “(III) substantially all of the support
13 (other than gross investment income as de-
14 fined in section 509(e)) of which is nor-
15 mally received from the general public and
16 from 5 or more exempt organizations
17 which are not described in section
18 4946(a)(1)(II) with respect to each other
19 or the recipient foundation; not more than
20 25 percent of the support (other than
21 gross investment income) of which is nor-
22 mally received from any one such exempt
23 organization; and not more than half of
24 the support of which is normally received
25 from gross investment income.

1 Notwithstanding the provisions of clause (i), if
2 the qualifying distributions (within the meaning
3 of paragraph (1) or (2) of section 4942(g)) of
4 an organization for the taxable year exceed the
5 minimum investment return for the taxable
6 year, subclause (II) of clause (i) shall not apply
7 unless substantially all of such qualifying dis-
8 tributions are made directly for the active con-
9 duct of the activities constituting the purpose or
10 function for which it is organized and operated.

11 “(I) FUNCTIONALLY RELATED BUSI-
12 NESS.—For purposes of subparagraph (H), the
13 term ‘functionally related business’ means—

14 “(i) a trade or business which is not
15 an unrelated trade or business (as defined
16 in section 513), or

17 “(ii) an activity which is carried on
18 within a larger aggregate of similar activi-
19 ties or within a larger complex of other en-
20 deavors which is related (aside from the
21 need of the organization for income or
22 funds or the use it makes of the profits de-
23 rived) to the exempt purposes of the orga-
24 nization.”.

- 1 (4) Section 170(e)(3)(A) is amended by striking
2 “as defined in section 4942(j)(3)” and inserting “as
3 defined in subsection (b)(1)(H)”.
- 4 (5) Section 150(b)(3)(F), as redesignated by
5 this Act, is amended—
- 6 (A) by striking “4942 (relating to the ex-
7 cise tax on a failure to distribute income) and”,
8 (B) by striking “section 4942(j)(4)” and
9 inserting “section 170(b)(1)(I)”.
- 10 (6) Section 2055(e)(4)(D) is amended by strik-
11 ing “section 4942(j)(3)” and inserting “section
12 170(b)(1)(H)”.
- 13 (7) Section 2503(g)(2)(B) is amended by strik-
14 ing “section 4942(j)(3)” and inserting “section
15 170(b)(1)(H)”.
- 16 (8) Section 4942(g)(1)(A) is amended by strik-
17 ing “which is not an operating foundation (as de-
18 fined in subsection (j)(3))”.
- 19 (9) Section 4942(g)(3)(A) is amended by strik-
20 ing “which is not an operating foundation”.
- 21 (10) Section 4942(g)(4)(A) is amended by
22 striking “which is not an operating foundation”.
- 23 (11) Section 4943(d)(3)(A) is amended by
24 striking “section 4942(j)(4)” and inserting “section
25 170(b)(1)(I)”.

1 (12) Section 6110(l)(2)(A) is amended by strik-
2 ing “section 4942(j)(3)” and inserting “section
3 170(b)(1)(H)”.

4 (13) Section 7428(a)(1)(C) is amended by
5 striking “section 4942(j)(3)” and inserting “section
6 170(b)(1)(H)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2014.

10 **SEC. 5206. EXCISE TAX BASED ON INVESTMENT INCOME OF**
11 **PRIVATE COLLEGES AND UNIVERSITIES.**

12 (a) IN GENERAL.—Chapter 42 is amended by adding
13 at the end the following new subchapter:

14 **“Subchapter H—Excise Tax Based on Invest-**
15 **ment Income of Private Colleges and Uni-**
16 **versities**

“Sec. 4969. Excise tax based on investment income of private colleges and uni-
versities.

17 **“SEC. 4969. EXCISE TAX BASED ON INVESTMENT INCOME**
18 **OF PRIVATE COLLEGES AND UNIVERSITIES.**

19 “(a) TAX IMPOSED.—There is hereby imposed on
20 each applicable educational institution for the taxable year
21 a tax equal to 1 percent of the net investment income of
22 such institution for the taxable year.

23 “(b) APPLICABLE EDUCATIONAL INSTITUTION.—For
24 purposes of this subchapter—

1 “(1) IN GENERAL.—The term ‘applicable edu-
2 cational institution’ means an eligible educational in-
3 stitution (as defined in section 25A(e)(3))—

4 “(A) which is not described in the first
5 sentence of section 511(a)(2)(B) (relating to
6 State colleges and universities), and

7 “(B) the aggregate fair market value of
8 the assets of which at the end of the preceding
9 taxable year (other than those assets which are
10 used (or held for use) directly in carrying out
11 the institution’s exempt purpose) is at least
12 \$100,000 per student of the institution.

13 “(2) STUDENTS.—For purposes of paragraph
14 (1)(B), the number of students of an institution
15 shall be based on the daily average number of full-
16 time students attending such institution (with part-
17 time students taken into account on a full-time stu-
18 dent equivalent basis).

19 “(c) NET INVESTMENT INCOME.—For purposes of
20 this section, net investment income shall be determined
21 under rules similar to the rules of section 4940(e).”.

22 (b) CLERICAL AMENDMENT.—The table of sub-
23 chapters for chapter 42 is amended by adding at the end
24 the following new item:

 “SUBCHAPTER H—EXCISE TAX BASED ON INVESTMENT INCOME OF PRIVATE
 COLLEGES AND UNIVERSITIES”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

4 **Subtitle D—Requirements For**
5 **Organizations Exempt From Tax**

6 **SEC. 5301. REPEAL OF TAX-EXEMPT STATUS FOR PROFES-**
7 **SIONAL SPORTS LEAGUES.**

8 (a) IN GENERAL.—Paragraph (6) of section 501(c)
9 is amended—

10 (1) by striking “, boards of trade, or profes-
11 sional” and all that follows through “players)” and
12 inserting “, or boards of trade” , and

13 (2) by adding at the end the following: “This
14 paragraph shall not apply to any professional sports
15 league (whether or not administering a pension fund
16 for players).”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2014.

20 **SEC. 5302. REPEAL OF EXEMPTION FROM TAX FOR CER-**
21 **TAIN INSURANCE COMPANIES AND CO-OP**
22 **HEALTH INSURANCE ISSUERS.**

23 (a) IN GENERAL.—Section 501(c) is amended by
24 striking paragraphs (15) and (29).

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 831(d), as amended by the pre-
2 ceding provisions of this Act, is amended to read as
3 follows:

4 “(d) CROSS REFERENCE.—For taxation of foreign
5 corporations carrying on an insurance business within the
6 United States, see section 842.”.

7 (2) Section 4958(e)(1) is amended by striking
8 “(4), or (29)” and inserting “or (4)”.

9 (3) Section 6033 is amended by striking sub-
10 section (m) and redesignating subsection (n) as sub-
11 section (m).

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2014.

15 (d) TRANSITION RULES.—In the case of any organi-
16 zation described in paragraph (15) or (29) of section
17 501(c) of the Internal Revenue Code of 1986 (as in effect
18 immediately before the enactment of this Act)—

19 (1) no adjustment shall be made under section
20 481 (or any other provision) of the Internal Revenue
21 Code of 1986 on account of a change in its method
22 of accounting for its 1st taxable year beginning after
23 December 31, 2014, and

24 (2) for purposes of determining gain or loss, the
25 adjusted basis of any asset held on the 1st day of

1 such taxable year shall be treated as equal to its fair
2 market value as of such day.

3 **SEC. 5303. IN-STATE REQUIREMENT FOR WORKMEN'S COM-**
4 **PENSATION INSURANCE ORGANIZATION.**

5 (a) IN GENERAL.—Clause (ii) of section
6 501(c)(27)(B) is amended by inserting before the comma
7 at the end the following: “, and must not offer any other
8 insurance”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to insurance policies issued, and
11 renewals, after December, 31, 2014.

12 **SEC. 5304. REPEAL OF TYPE II AND TYPE III SUPPORTING**
13 **ORGANIZATIONS.**

14 (a) IN GENERAL.—Subparagraph (B) of section
15 509(a)(3) is amended—

- 16 (1) by inserting “and” at the end of clause (i),
17 (2) by striking clauses (ii) and (iii), and
18 (3) by striking “is—” and all that follows
19 through “operated, supervised, or controlled” and
20 inserting “is operated, supervised, or controlled”.

21 (b) CONFORMING AMENDMENTS.—

- 22 (1) Section 170(f)(18)(A) is amended by strik-
23 ing “is not—” and all that follows through “, and”
24 and inserting the following: “is not described in
25 paragraph (3), (4), or (5) of subsection (e), and”.

1 (2)(A)(i) Section 509(f) is amended by striking
2 paragraph (1) and by redesignating paragraphs (2)
3 and (3) as paragraphs (1) and (2), respectively.

4 (ii) Section 4942(g)(4)(A)(ii)(I) is amended by
5 striking “section 509(f)(3)” and inserting “section
6 509(f)(2)”.

7 (iii) Section 4958(c)(3)(C)(ii)(II) is amended by
8 striking “section 509(f)(3)” and inserting “section
9 509(f)(2)”.

10 (iv) Section 4966(d)(4)(A)(ii)(I) is amended by
11 striking “section 509(f)(3)” and inserting “section
12 509(f)(2)”.

13 (B) Section 509(f)(1)(A), as so redesignated, is
14 amended by striking “shall not be considered to
15 be—” and all that follows through “if such organi-
16 zation” and inserting the following: “shall not be
17 considered to be operated, supervised, or controlled
18 by any organization described in paragraph (1) or
19 (2) of subsection (a), if such organization”.

20 (3) Section 2055(e)(5)(A) is amended by strik-
21 ing “is not—” and all that follows through “, and”
22 and inserting the following: “is not described in
23 paragraph (3) or (4) of subsection (a), and”.

24 (4) Section 2522(e)(5)(A) is amended by strik-
25 ing “is not—” and all that follows through “, and”

1 and inserting the following: “is not described in
2 paragraph (3) or (4) of subsection (a), and”.

3 (5)(A) Section 4942(g)(4)(A), as amended by
4 the preceding provision of this Act, is amended—

5 (i) by redesignating subclauses (I) and
6 (II) of clause (ii) as clauses (i) and (ii), re-
7 spectively, and moving such redesignated
8 clauses 2 ems to the left,

9 (ii) by striking “paid by a private
10 foundation to—” and all that follows
11 through “any organization which” and in-
12 serting the following: “paid by a private
13 foundation to any organization which”,
14 and

15 (iii) by striking “subparagraph (B) or
16 (C)” and inserting “subparagraph (B)”.

17 (B) Section 4942(g)(4)(B) is amended—

18 (i) by striking clause (ii),

19 (ii) by striking “section 509(a), or” and in-
20 serting “section 509(a).”,

21 (iii) by striking “and is—” and all that fol-
22 lows through “operated, supervised, or con-
23 trolled by” and inserting the following: “and is
24 operated, supervised, or controlled by”, and

1 (iv) by striking “TYPE I AND TYPE II” in
2 the heading thereof.

3 (C) Section 4942(g)(4) is amended by striking
4 subparagraph (C).

5 (D) Section 4945(d)(4)(A)(ii) is amended by
6 striking “clause (i) or (ii) of section 4942(g)(4)(A)”
7 and inserting “section 4942(g)(4)(A)”.

8 (6) Section 4943 is amended by striking sub-
9 section (f).

10 (7)(A) Section 4966(d)(4)(A), as amended by
11 this Act, is amended—

12 (i) by redesignating subclauses (I) and
13 (II) of clause (ii) as clauses (i) and (ii), re-
14 spectively, and moving such redesignated
15 clauses 2 ems to the left,

16 (ii) by striking “with respect to any
17 distribution—” and all that follows
18 through “any organization which” and in-
19 serting the following: “with respect to any
20 distribution, any organization which”, and

21 (iii) by striking “subparagraph (B) or
22 (C)” and inserting “subparagraph (B)”.

23 (B) Section 4966(d)(4)(B) is amended—

24 (i) by striking clause (ii),

1 (ii) by striking “section 509(a), or” and in-
2 serting “section 509(a).”,

3 (iii) by striking “and is—” and all that fol-
4 lows through “operated, supervised, or con-
5 trolled by” and inserting the following: “and is
6 operated, supervised, or controlled by”, and

7 (iv) by striking “TYPE I AND TYPE II” in
8 the heading thereof.

9 (C) Section 4966(d)(4) is amended by striking
10 subparagraph (C).

11 (8) Section 6033(l) is amended by inserting
12 “and” at the end of paragraph (1), by striking para-
13 graph (2), and by redesignating paragraph (3) as
14 paragraph (2).

15 (c) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendments made by this section
18 shall take effect on the date of the enactment of this
19 Act.

20 (2) DELAY FOR CURRENT SUPPORTING ORGANI-
21 ZATIONS.—In the case of an organization which, as
22 of the date of the enactment of this Act, meets the
23 requirements of subparagraphs (A) and (C) of sec-
24 tion 509(a)(3) of the Internal Revenue Code of 1986
25 and is—

1 (A) supervised or controlled in connection
2 with one or more organizations described in
3 paragraph (1) or (2) of section 509(a) of such
4 Code, or

5 (B) is operated in connection with one or
6 more such organizations,

7 the amendments made by this section shall apply to
8 taxable years beginning after December 31, 2015.

9 **TITLE VI—TAX ADMINISTRATION**
10 **AND COMPLIANCE**

11 **Subtitle A—IRS Investigation-**
12 **Related Reforms**

13 **SEC. 6001. ORGANIZATIONS REQUIRED TO NOTIFY SEC-**
14 **RETARY OF INTENT TO OPERATE AS 501(c)(4).**

15 (a) IN GENERAL.—Part I of subchapter F of chapter
16 1 is amended by adding at the end the following new sec-
17 tion:

18 **“SEC. 506. ORGANIZATIONS REQUIRED TO NOTIFY SEC-**
19 **RETARY OF INTENT TO OPERATE AS 501(c)(4).**

20 “(a) IN GENERAL.—An organization described in
21 section 501(c)(4) shall, not later than 60 days after the
22 organization is established, notify the Secretary (in such
23 manner as the Secretary shall by regulation prescribe)
24 that it is operating as such.

1 “(b) CONTENTS OF NOTICE.—The notice required
2 under subsection (a) shall include the following informa-
3 tion:

4 “(1) The name, address, and taxpayer identi-
5 fication number of the organization.

6 “(2) The date on which, and the State under
7 the laws of which, the organization was organized.

8 “(3) A statement of the purpose of the organi-
9 zation.

10 “(c) ACKNOWLEDGMENT OF RECEIPT.—Not later
11 than 60 days after receipt of such a notice, the Secretary
12 shall send to the organization an acknowledgment of such
13 receipt.

14 “(d) EXTENSION FOR REASONABLE CAUSE.—The
15 Secretary may, for reasonable cause, extend the 60-day
16 period described in subsection (a).

17 “(e) USER FEE.—The Secretary shall impose a rea-
18 sonable user fee for submission of the notice under sub-
19 section (a).

20 “(f) REQUEST FOR DETERMINATION.—Upon request
21 by an organization to be treated as an organization de-
22 scribed in section 501(c)(4), the Secretary may issue a de-
23 termination with respect to such treatment. Such request
24 shall be treated for purposes of section 6104 as an applica-
25 tion for exemption from taxation under section 501(a).”.

1 (b) SUPPORTING INFORMATION WITH FIRST RE-
2 TURN.—Paragraph (1) of section 6033(f) is amended—

3 (1) by striking the period at the end and insert-
4 ing “, and”,

5 (2) by striking “include on the return required
6 under subsection (a) the information” and inserting
7 the following: “include on the return required under
8 subsection (a)—

9 “(1) the information”, and

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

12 “(2) in the case of the first such return filed by
13 such an organization after submitting a notice to the
14 Secretary under section 506(a), such information as
15 the Secretary shall by regulation require in support
16 of the organization’s treatment as an organization
17 described in section 501(c)(4).”.

18 (c) FAILURE TO FILE INITIAL NOTIFICATION.—Sub-
19 section (c) of section 6652 is amended by redesignating
20 paragraphs (4) and (5) as paragraphs (5) and (6), respec-
21 tively, and by inserting after paragraph (3) the following
22 new paragraph:

23 “(4) NOTICES UNDER SECTION 506.—

24 “(A) PENALTY ON ORGANIZATION.—In the
25 case of a failure to submit a notice required

1 under section 506(a) (relating to organizations
2 required to notify Secretary of intent to operate
3 as 501(c)(4)) on the date and in the manner
4 prescribed therefor, there shall be paid by the
5 organization failing to so submit \$20 for each
6 day during which such failure continues, but
7 the total amount imposed under this subpara-
8 graph on any organization for failure to submit
9 any one notice shall not exceed \$5,000.

10 “(B) MANAGERS.—The Secretary may
11 make written demand on an organization sub-
12 ject to penalty under subparagraph (A) speci-
13 fying in such demand a reasonable future date
14 by which the notice shall be submitted for pur-
15 poses of this subparagraph. If such notice is not
16 submitted on or before such date, there shall be
17 paid by the person failing to so submit \$20 for
18 each day after the expiration of the time speci-
19 fied in the written demand during which such
20 failure continues, but the total amount imposed
21 under this subparagraph on all persons for fail-
22 ure to submit any one notice shall not exceed
23 \$5,000.”.

1 (d) CLERICAL AMENDMENT.—The table of sections
2 for part I of subchapter F of chapter 1 is amended by
3 adding at the end the following new item:

“Sec. 506. Organizations required to notify Secretary of intent to operate as
501(c)(4).”.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply to organizations which are
7 described in section 501(c)(4) of the Internal Rev-
8 enue Code of 1986 and organized after December
9 31, 2014.

10 (2) CERTAIN EXISTING ORGANIZATIONS.—In
11 the case of any other organization described in sec-
12 tion 501(c)(4) of such Code, the amendments made
13 by this section shall apply to such organization only
14 if, on or before the date of the enactment of this
15 Act—

16 (A) such organization has not applied for
17 a written determination of recognition as an or-
18 ganization described in section 501(c)(4) of
19 such Code, and

20 (B) such organization has not filed at least
21 one annual return or notice required under sub-
22 section (a)(1) or (i) (as the case may be) of sec-
23 tion 6033 of such Code.

1 In the case of any organization to which the amend-
2 ments made by this section apply by reason of the
3 preceding sentence, such organization shall submit
4 the notice required by section 506(a) of such Code,
5 as added by this Act, not later than 180 days after
6 the date of the enactment of this Act.

7 **SEC. 6002. DECLARATORY JUDGMENTS FOR 501(e)(4) ORGA-**
8 **NIZATIONS.**

9 (a) IN GENERAL.—Paragraph (1) of section 7428(a)
10 is amended by striking “or” at the end of subparagraph
11 (C) and by inserting after subparagraph (D) the following
12 new subparagraph:

13 “(E) with respect to the initial classifica-
14 tion or continuing classification of an organiza-
15 tion described in section 501(e)(4) which is ex-
16 empt from tax under section 501(a), or”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to pleadings filed after the date
19 of the enactment of this Act.

20 **SEC. 6003. RESTRICTION ON DONATION REPORTING FOR**
21 **CERTAIN 501(e)(4) ORGANIZATIONS.**

22 (a) IN GENERAL.—Subsection (f) of section 6033, as
23 amended by this Act, is amended—

1 (1) by redesignating paragraphs (1) and (2) as
2 subparagraphs (A) and (B), respectively, and by
3 moving such subparagraphs 2 ems to the right,

4 (2) by striking “IN SECTION 501(c)(4).—Every
5 organization” and inserting the following: “IN SEC-
6 TION 501(c)(4).—

7 “(1) IN GENERAL.—Every organization”, and

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

10 “(2) RESTRICTION ON DONATION REPORT-
11 ING.—In the case of any such organization, informa-
12 tion relating to contributions and gifts may only be
13 required to be included on a return required under
14 subsection (a) if the contribution or gift is made by
15 an officer or director of the organization (or an indi-
16 vidual having powers or responsibilities similar to
17 those of officers or directors) or any covered em-
18 ployee (as defined in section 4960(c)(2)) of the orga-
19 nization.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to returns for taxable years begin-
22 ning after December 31, 2013.

1 **SEC. 6004. MANDATORY ELECTRONIC FILING FOR ANNUAL**
2 **RETURNS OF EXEMPT ORGANIZATIONS.**

3 (a) IN GENERAL.—Section 6033, as amended by the
4 preceding provisions of this Act, is amended by redesignig-
5 nating subsection (m) as subsection (n) and by inserting
6 after subsection (l) the following new subsection:

7 “(m) MANDATORY ELECTRONIC FILING.—Any orga-
8 nization required to file a return under this section shall
9 file such return in electronic form.”.

10 (b) INSPECTION OF ELECTRONICALLY FILED AN-
11 NUAL RETURNS.—Subsection (b) of section 6104 is
12 amended by adding at the end the following: “Any annual
13 return required to be filed electronically under section
14 6033(m) shall be made available by the Secretary to the
15 public in machine readable format as soon as prac-
16 ticable.”.

17 (c) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), the amendments made by this section
20 shall apply to taxable years beginning after the date
21 of the enactment of this Act.

22 (2) TRANSITIONAL RELIEF.—

23 (A) SMALL ORGANIZATIONS.—

24 (i) IN GENERAL.—In the case of any
25 small organizations, or any other organiza-
26 tions for which the Secretary determines

1 the application of the amendments made
2 by subsection (a) would cause undue bur-
3 den without a delay, the Secretary may
4 delay the application of such amendments,
5 but not later than taxable years beginning
6 2 years after the date of the enactment of
7 this Act.

8 (ii) SMALL ORGANIZATION.—For pur-
9 poses of clause (i), the term “small organi-
10 zation” means any organization—

11 (I) the gross receipts of which for
12 the taxable year are less than
13 \$200,000, and

14 (II) the aggregate gross assets of
15 which at the end of the taxable year
16 are less than \$500,000.

17 (B) ORGANIZATIONS FILING FORM 990-
18 T.—In the case of any organization described
19 in section 511(a)(2) of the Internal Revenue
20 Code of 1986 which is subject to the tax im-
21 posed by section 511(a)(1) of such Code on its
22 unrelated business taxable income, or any orga-
23 nization required to file a return under section
24 6033 of such Code and include information
25 under subsection (e) thereof, the Secretary may

1 delay the application of the amendments made
2 by this section, but not later than taxable years
3 beginning 2 years after the date of the enact-
4 ment of this Act.

5 **SEC. 6005. DUTY TO ENSURE THAT IRS EMPLOYEES ARE FA-**
6 **MILIAR WITH AND ACT IN ACCORD WITH CER-**
7 **TAIN TAXPAYER RIGHTS.**

8 Section 7803(a) is amended by redesignating para-
9 graph (3) as paragraph (4) and by inserting after para-
10 graph (2) the following new paragraph:

11 “(3) EXECUTION OF DUTIES IN ACCORD WITH
12 TAXPAYER RIGHTS.—In discharging his duties, the
13 Commissioner shall ensure that employees of the In-
14 ternal Revenue Service are familiar with and act in
15 accord with taxpayer rights as afforded by other
16 provisions of this title, including—

- 17 “(A) the right to be informed,
18 “(B) the right to be assisted,
19 “(C) the right to be heard,
20 “(D) the right to pay no more than the
21 correct amount of tax,
22 “(E) the right of appeal,
23 “(F) the right to certainty,
24 “(G) the right to privacy,
25 “(H) the right to confidentiality,

1 “(I) the right to representation, and
2 “(J) the right to a fair and just tax sys-
3 tem.”.

4 **SEC. 6006. TERMINATION OF EMPLOYMENT OF IRS EM-**
5 **PLOYEES FOR TAKING OFFICIAL ACTIONS**
6 **FOR POLITICAL PURPOSES.**

7 Paragraph (10) of section 1203(b) of the Internal
8 Revenue Service Restructuring and Reform Act of 1998
9 is amended to read as follows:

10 “(10) performing, delaying, or failing to per-
11 form (or threatening to perform, delay, or fail to
12 perform) any official action (including any audit)
13 with respect to a taxpayer for purpose of extracting
14 personal gain or benefit or for a political purpose.”.

15 **SEC. 6007. RELEASE OF INFORMATION REGARDING THE**
16 **STATUS OF CERTAIN INVESTIGATIONS.**

17 (a) IN GENERAL.—Subsection (e) of section 6103 is
18 amended by adding at the end the following new para-
19 graph:

20 “(11) DISCLOSURE OF INFORMATION REGARD-
21 ING STATUS OF INVESTIGATION OF VIOLATION OF
22 THIS SECTION.—In the case of a person who pro-
23 vides to the Secretary information indicating a viola-
24 tion of section 7213, 7213A, or 7214 with respect
25 to any return or return information of such person,

1 the Secretary may disclose to such person (or such
2 person's designee)—

3 “(A) whether an investigation based on the
4 person's provision of such information has been
5 initiated and whether it is open or closed,

6 “(B) whether any such investigation sub-
7 stantiated such a violation by any individual,
8 and

9 “(C) whether any action has been taken
10 with respect to such individual (including
11 whether a referral has been made for prosecu-
12 tion of such individual).”.

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

16 **SEC. 6008. REVIEW OF IRS EXAMINATION SELECTION PRO-**
17 **CEDURES.**

18 (a) IN GENERAL.—The Comptroller General of the
19 United States shall conduct a study of each Internal Rev-
20 enue Service operating division to assess the process used
21 for determining how enforcement cases are selected and
22 processed. Such study shall include a review of the fol-
23 lowing:

24 (1) The standards each such operating division
25 has established for enforcement case selection (in-

1 cluding any automated or discretionary selection
2 processes) and case work, and whether such stand-
3 ards meet the objectives of impartiality, objectivity,
4 compliance, and minimizing taxpayer burden.

5 (2) The extent to which any cases are initiated
6 by referrals or complaints from inside or outside of
7 the operating division (including from outside of the
8 Internal Revenue Service).

9 (3) The Internal Revenue Service controls (in-
10 cluding management reviews and regular updates)
11 for assuring that its standards for enforcement cases
12 (and handling of referrals and complaints) in each
13 operating division are sufficient for achieving the ob-
14 jectives described in paragraph (1).

15 (4) The Internal Revenue Service controls (in-
16 cluding training, monitoring, and quality assess-
17 ments) for assuring that its standards are adhered
18 to by all division personnel and the effectiveness of
19 such controls.

20 (5) Whether the existing standards and controls
21 provide reasonable assurance that each division's en-
22 forcement processes meet the Internal Revenue Serv-
23 ice objectives of impartiality, objectivity, compliance,
24 and minimizing taxpayer burden.

1 (b) INITIAL REPORT.—Not later than 1 year after
2 the date of the enactment of this section, the Comptroller
3 General shall submit to the Committee on Ways and
4 Means of the House of Representatives, the Committee on
5 Finance of the Senate, and the Secretary of the Treasury
6 a report on the results of such study. Such report shall
7 include such recommendations as the Comptroller General
8 may deem advisable.

9 (c) FOLLOW-UP ON RECOMMENDATIONS.—Not later
10 than 180 days after a report is submitted with respect
11 to an operating division under subsection (b), the Comp-
12 troller General shall conduct a follow-up study, and submit
13 to the Committee on Ways and Means of the House of
14 Representatives, the Committee on Finance of the Senate,
15 and the Secretary of the Treasury a report, on whether
16 any recommendations to improve case selection and case
17 work processes have been implemented and are working
18 as intended.

19 (d) CONTINUING CASE MANAGEMENT STUDIES AND
20 REPORTS.—

21 (1) IN GENERAL.—After a report is submitted
22 under subsection (b), the Comptroller General shall
23 conduct follow-up studies and reports in the same
24 manner as provided in subsections (a) and (b) with
25 respect to each operating division of the Internal

1 Revenue Service and shall include in such study and
2 report a review of whether any previous rec-
3 ommendations to improve case selection and case
4 work processes have been implemented and are
5 working as intended.

6 (2) FREQUENCY.—Each such report with re-
7 spect to an operating division shall be submitted not
8 later than 4 years after the date the most recent re-
9 port was submitted with respect to such operating
10 division under subsection (b) or this subsection. The
11 Comptroller General shall submit no fewer than 1
12 such report each year.

13 **SEC. 6009. IRS EMPLOYEES PROHIBITED FROM USING PER-**
14 **SONAL EMAIL ACCOUNTS FOR OFFICIAL**
15 **BUSINESS.**

16 No officer or employee of the Internal Revenue Serv-
17 ice may use a personal email account to conduct any offi-
18 cial business of the Government.

19 **SEC. 6010. MORATORIUM ON IRS CONFERENCES.**

20 The Internal Revenue Service shall not hold any con-
21 ference until the Treasury Inspector General for Tax Ad-
22 ministration submits a report to Congress—

23 (1) certifying that the Internal Revenue Service
24 has implemented all of the recommendations set out
25 in such Inspector General’s report titled “Review of

1 the August 2010 Small Business/Self-Employed Di-
2 vision's Conference in Anaheim, California", and
3 (2) describing such implementation.

4 **SEC. 6011. APPLICABLE STANDARD FOR DETERMINATIONS**
5 **OF WHETHER AN ORGANIZATION IS OPER-**
6 **ATED EXCLUSIVELY FOR THE PROMOTION OF**
7 **SOCIAL WELFARE.**

8 (a) IN GENERAL.—The standard and definitions as
9 in effect on January 1, 2010, which are used to determine
10 whether an organization is operated exclusively for the
11 promotion of social welfare for purposes of section
12 501(c)(4) of the Internal Revenue Code of 1986 shall
13 apply for purposes of determining the status of organiza-
14 tions under section 501(c)(4) of the Internal Revenue
15 Code of 1986 after the date of the enactment of this Act.

16 (b) PROHIBITION ON MODIFICATION OF STAND-
17 ARD.—The Secretary of the Treasury may not (nor may
18 any delegate of such Secretary) issue, revise, or finalize
19 any regulation (including the proposed regulations pub-
20 lished at 78 Fed. Reg. 71535 (November 29, 2013)), rev-
21 enue ruling, or other guidance not limited to a particular
22 taxpayer relating to the standard and definitions specified
23 in subsection (a).

24 (c) APPLICATION TO ORGANIZATIONS.—Except as
25 provided in subsection (d), this section shall apply with

1 respect to any organization claiming tax exempt status
2 under section 501(c)(4) of the Internal Revenue Code of
3 1986 which was created on, before, or after the date of
4 the enactment of this Act.

5 (d) SUNSET.—This section shall not apply after the
6 one-year period beginning on the date of the enactment
7 of this Act.

8 **Subtitle B—Taxpayer Protection**
9 **and Service Reforms**

10 **SEC. 6101. EXTENSION OF IRS AUTHORITY TO REQUIRE**

11 **TRUNCATED SOCIAL SECURITY NUMBERS ON**

12 **FORM W-2.**

13 (a) IN GENERAL.—Paragraph (2) of section 6051(a)
14 is amended by striking “his social security number” and
15 inserting “an identifying number for the employee”.

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

19 **SEC. 6102. FREE ELECTRONIC FILING.**

20 (a) IN GENERAL.—The Secretary of the Treasury
21 shall, in cooperation with the private sector technology in-
22 dustry, maintain a program that provides free individual
23 income tax preparation and electronic filing services to
24 low-income taxpayers and elderly taxpayers.

1 (b) REQUIREMENTS OF PROGRAM.—The Secretary
2 shall by regulation or other guidance prescribe with re-
3 spect to the program—

4 (1) the qualifications, selection process, and
5 contract term for businesses participating in the pro-
6 gram,

7 (2) a process for periodic review of businesses
8 participating in the program,

9 (3) procedures for terminating business partici-
10 pation in the program for failure to comply with any
11 program requirements, and

12 (4) such other procedures as the Secretary de-
13 termines are necessary or appropriate to carry out
14 the purposes of the program.

15 (c) FREE FILE PROGRAM.—The Internal Revenue
16 Service Free File program, as set forth in the notice pub-
17 lished in the Federal Register on November 4, 2002 (67
18 Fed. Reg. 67247), shall be treated as meeting the require-
19 ments of subsection (a).

20 **SEC. 6103. PRE-POPULATED RETURNS PROHIBITED.**

21 Except to the extent provided in section 6014, 6020,
22 or 6201(d) of the Internal Revenue Code of 1986, the Sec-
23 retary of the Treasury shall not provide to any person a
24 proposed final return or statement for use by such person

1 to satisfy a filing or reporting requirement under such
2 Code.

3 **SEC. 6104. FORM 1040SR FOR SENIORS.**

4 (a) IN GENERAL.—The Secretary of the Treasury (or
5 the Secretary’s delegate) shall make available a form, to
6 be known as “Form 1040SR”, for use by individuals to
7 file the return of tax imposed by chapter 1 of the Internal
8 Revenue Code of 1986. Such form shall be as similar as
9 practicable to Form 1040EZ, except that—

10 (1) the form shall be available to individuals
11 who have attained age 65 as of the close of the tax-
12 able year,

13 (2) the form may be used even if income for the
14 taxable year includes—

15 (A) social security benefits (as defined in
16 section 86(d) of the Internal Revenue Code of
17 1986),

18 (B) distributions from qualified retirement
19 plans (as defined in section 4974(c) of such
20 Code), annuities or other such deferred pay-
21 ment arrangements,

22 (C) interest and dividends, or

23 (D) capital gains and losses taken into ac-
24 count in determining the deduction for adjusted

1 net capital gain under section 169 of such
2 Code, and

3 (3) the form shall be available without regard
4 to the amount of any item of taxable income or the
5 total amount of taxable income for the taxable year.

6 (b) EFFECTIVE DATE.—The form required by sub-
7 section (a) shall be made available for taxable years begin-
8 ning after December 31, 2014.

9 **SEC. 6105. INCREASED REFUND AND CREDIT THRESHOLD**
10 **FOR JOINT COMMITTEE ON TAXATION RE-**
11 **VIEW OF C CORPORATION RETURN.**

12 (a) IN GENERAL.—Subsections (a) and (b) of section
13 6405 are each amended by inserting “(\$5,000,000 in the
14 case of a C corporation)” after “\$2,000,000”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall take effect on the date of the enactment
17 of this Act, except that such amendment shall not apply
18 with respect to any refund or credit with respect to a re-
19 port that has been made before such date under section
20 6405 of the Internal Revenue Code of 1986.

21 **Subtitle C—Tax Return Due Date**
22 **Simplification**

23 **SEC. 6201. DUE DATES FOR RETURNS OF PARTNERSHIPS, S**
24 **CORPORATIONS, AND C CORPORATIONS.**

25 (a) PARTNERSHIPS AND S CORPORATIONS.—

1 (1) IN GENERAL.—So much of subsection (b) of
2 6072 as precedes the second sentence thereof is
3 amended to read as follows:

4 “(b) RETURNS OF PARTNERSHIPS AND S CORPORA-
5 TIONS.—Returns of partnerships under section 6031 and
6 returns of S corporations under sections 6012 and 6037
7 made on the basis of the calendar year shall be filed on
8 or before the 15th day of March following the close of the
9 calendar year, and such returns made on the basis of a
10 fiscal year shall be filed on or before the 15th day of the
11 third month following the close of the fiscal year.”.

12 (2) CONFORMING AMENDMENT.—Section
13 6072(a) is amended by striking “6017, or 6031”
14 and inserting “or 6017”.

15 (b) CONFORMING AMENDMENTS RELATING TO C
16 CORPORATION DUE DATE OF 15TH DAY OF FOURTH
17 MONTH FOLLOWING TAXABLE YEAR.—

18 (1) Section 170(a)(3)(B), as redesignated by
19 the preceding provisions of this Act, is amended by
20 striking “third month” and inserting “fourth
21 month”.

22 (2) Section 563 is amended by striking “third
23 month” each place it appears and inserting “fourth
24 month”.

1 (3) Section 1354(d)(1)(B)(i) is amended by
2 striking “3d month” and inserting “4th month”.

3 (4) Subsection (a) and (c) of section 6167 are
4 each amended by striking “third month” and insert-
5 ing “fourth month”.

6 (5) Section 6425(a)(1) is amended by striking
7 “third month” and inserting “fourth month”.

8 (6) Subsections (b)(2)(A), (g)(3), and (h)(1) of
9 section 6655 are each amended by striking “3rd
10 month” and inserting “4th month”.

11 (c) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the amendments made by this section
14 shall apply to returns for taxable years beginning
15 after December 31, 2014.

16 (2) SPECIAL RULE FOR C CORPORATIONS WITH
17 FISCAL YEARS ENDING ON JUNE 30.—In the case of
18 any C corporation with a fiscal year ending on June
19 30, the amendments made by this section shall not
20 apply to any taxable year beginning in 2022.

21 **SEC. 6202. MODIFICATION OF DUE DATES BY REGULATION.**

22 In the case of returns for taxable years beginning
23 after December 31, 2014, the Secretary of the Treasury,
24 or the Secretary’s designee, shall modify appropriate regu-
25 lations to provide as follows:

1 (1) The maximum extension for the returns of
2 partnerships filing Form 1065 shall be a 6-month
3 period ending on September 15 for calendar year
4 taxpayers.

5 (2) The maximum extension for the returns of
6 trusts filing Form 1041 shall be a 5½-month period
7 ending on September 30 for calendar year taxpayers.

8 (3) The maximum extension for the returns of
9 employee benefit plans filing Form 5500 shall be an
10 automatic 3½-month period ending on November 15
11 for calendar year plans.

12 (4) The maximum extension for the returns of
13 organizations exempt from income tax filing Form
14 990 shall be an automatic 6-month period ending on
15 November 15 for calendar year filers.

16 (5) The due date of Form 3520-A (relating to
17 the Annual Information Return of Foreign Trust
18 with a United States Owner) for calendar year filers
19 shall be April 15 with a maximum extension for a
20 6-month period ending on October 15.

21 (6) The due date of Form TD F 90-22.1 (re-
22 lating to Report of Foreign Bank and Financial Ac-
23 counts) shall be April 15 with a maximum extension
24 for a 6-month period ending on October 15 and with
25 provision for an extension under rules similar to the

1 rules in Treas. Reg. section 1.6081-5. For any tax-
2 payer required to file such Form for the first time,
3 any penalty for failure to timely request for, or file,
4 an extension, may be waived by the Secretary.

5 **SEC. 6203. CORPORATIONS PERMITTED STATUTORY AUTO-**
6 **MATIC 6-MONTH EXTENSION OF INCOME TAX**
7 **RETURNS.**

8 (a) IN GENERAL.—Section 6081(b) is amended by
9 striking “3 months” and inserting “6 months”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to returns for taxable years begin-
12 ning after December 31, 2014.

13 **Subtitle D—Compliance Reforms**

14 **SEC. 6301. PENALTY FOR FAILURE TO FILE.**

15 (a) IN GENERAL.—Section 6651(a) is amended by
16 striking “\$135” in the flush material at the end and in-
17 serting “\$400”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to returns the due date for the
20 filing of which (including extension) is after December 31,
21 2014.

22 **SEC. 6302. PENALTY FOR FAILURE TO FILE CORRECT IN-**
23 **FORMATION RETURNS AND PROVIDE PAYEE**
24 **STATEMENTS.**

25 (a) IN GENERAL.—Section 6721(a)(1) is amended—

1 (1) by striking “\$100” and inserting “\$250”,

2 and

3 (2) by striking “\$1,500,000” and inserting

4 “\$3,000,000”.

5 (b) REDUCTION WHERE CORRECTION IN SPECIFIED

6 PERIOD.—

7 (1) CORRECTION WITHIN 30 DAYS.—Section

8 6721(b)(1) is amended—

9 (A) by striking “\$30” and inserting
10 “\$50”,

11 (B) by striking “\$100” and inserting
12 “\$250”, and

13 (C) by striking “\$250,000” and inserting
14 “\$500,000”.

15 (2) FAILURES CORRECTED ON OR BEFORE AU-
16 GUST 1.—Section 6721(b)(2) is amended—

17 (A) by striking “\$60” and inserting
18 “\$100”,

19 (B) by striking “\$100” (prior to amend-
20 ment by subparagraph (A)) and inserting
21 “\$250”, and

22 (C) by striking “\$500,000” and inserting
23 “\$1,500,000”.

1 (c) LOWER LIMITATION FOR PERSONS WITH GROSS
2 RECEIPTS OF NOT MORE THAN \$5,000,000.—Section
3 6721(d)(1) is amended—

4 (1) in subparagraph (A)—

5 (A) by striking “\$500,000” and inserting
6 “\$1,000,000”, and

7 (B) by striking “\$1,500,000” and insert-
8 ing “\$3,000,000”,

9 (2) in subparagraph (B)—

10 (A) by striking “\$75,000” and inserting
11 “\$175,000”, and

12 (B) by striking “\$250,000” and inserting
13 “\$500,000”, and

14 (3) in subparagraph (C)—

15 (A) by striking “\$200,000” and inserting
16 “\$500,000”, and

17 (B) by striking “\$500,000” (prior to
18 amendment by subparagraph (A)) and inserting
19 “\$1,500,000”.

20 (d) PENALTY IN CASE OF INTENTIONAL DIS-
21 REGARD.—Section 6721(e) is amended—

22 (1) by striking “\$250” in paragraph (2) and in-
23 serting “\$500”, and

24 (2) by striking “\$1,500,000” in paragraph

25 (3)(A) and inserting “\$3,000,000”.

1 (e) FAILURE TO FURNISH CORRECT PAYEE STATE-
2 MENTS.—

3 (1) IN GENERAL.—Section 6722(a)(1) is
4 amended—

5 (A) by striking “\$100” and inserting
6 “\$250”, and

7 (B) by striking “\$1,500,000” and insert-
8 ing “\$3,000,000”.

9 (2) REDUCTION WHERE CORRECTION IN SPECI-
10 FIED PERIOD.—

11 (A) CORRECTION WITHIN 30 DAYS.—Sec-
12 tion 6722(b)(1) is amended—

13 (i) by striking “\$30” and inserting
14 “\$50”,

15 (ii) by striking “\$100” and inserting
16 “\$250”, and

17 (iii) by striking “\$250,000” and in-
18 serting “\$500,000”.

19 (B) FAILURES CORRECTED ON OR BEFORE
20 AUGUST 1.—Section 6722(b)(2) is amended—

21 (i) by striking “\$60” and inserting
22 “\$100”,

23 (ii) by striking “\$100” (prior to
24 amendment by clause (i)) and inserting
25 “\$250”, and

1 (iii) by striking “\$500,000” and in-
2 sserting “\$1,500,000”.

3 (3) LOWER LIMITATION FOR PERSONS WITH
4 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—

5 Section 6722(d)(1) is amended—

6 (A) in subparagraph (A)—

7 (i) by striking “\$500,000” and insert-
8 ing “\$1,000,000”, and

9 (ii) by striking “\$1,500,000” and in-
10 sserting “\$3,000,000”,

11 (B) in subparagraph (B)—

12 (i) by striking “\$75,000” and insert-
13 ing “\$175,000”, and

14 (ii) by striking “\$250,000” and in-
15 sserting “\$500,000”, and

16 (C) in subparagraph (C)—

17 (i) by striking “\$200,000” and insert-
18 ing “\$500,000”, and

19 (ii) by striking “\$500,000” (prior to
20 amendment by subparagraph (A)) and in-
21 sserting “\$1,500,000”.

22 (4) PENALTY IN CASE OF INTENTIONAL DIS-
23 REGARD.—Section 6722(e) is amended—

24 (A) by striking “\$250” in paragraph (2)
25 and inserting “\$500”, and

1 (B) by striking “\$1,500,000” in paragraph
2 (3)(A) and inserting “\$3,000,000”.

3 (f) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to returns and state-
5 ments required to be filed after December 31, 2014.

6 **SEC. 6303. CLARIFICATION OF 6-YEAR STATUTE OF LIMITA-**
7 **TIONS IN CASE OF OVERSTATEMENT OF**
8 **BASIS.**

9 (a) IN GENERAL.—Subparagraph (B) of section
10 6501(e)(1) is amended—

11 (1) by striking “and” at the end of clause (i),
12 by redesignating clause (ii) as clause (iii), and by in-
13 serting after clause (i) the following new clause:

14 “(ii) An understatement of gross in-
15 come by reason of an overstatement of un-
16 recovered cost or other basis is an omission
17 from gross income; and”, and

18 (2) by inserting “(other than in the case of an
19 overstatement of unrecovered cost or other basis)”
20 in clause (iii) (as so redesignated) after “In deter-
21 mining the amount omitted from gross income”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to—

24 (1) returns filed after the date of the enactment
25 of this Act, and

1 (2) returns filed on or before such date if the
2 period specified in section 6501 of the Internal Rev-
3 enue Code of 1986 (determined without regard to
4 such amendments) for assessment of the taxes with
5 respect to which such return relates has not expired
6 as of such date.

7 **SEC. 6304. REFORM OF RULES RELATED TO QUALIFIED TAX**

8 **COLLECTION CONTRACTS.**

9 (a) REQUIREMENT TO COLLECT CERTAIN INACTIVE
10 TAX RECEIVABLES UNDER QUALIFIED TAX COLLECTION
11 CONTRACTS.—Section 6306 is amended by redesignating
12 subsections (e) through (f) as subsections (d) through (g),
13 respectively, and by inserting after subsection (b) the fol-
14 lowing new subsection:

15 “(c) COLLECTION OF INACTIVE TAX RECEIV-
16 ABLES.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of law, the Secretary shall enter into one
19 or more qualified tax collection contracts for the col-
20 lection of all outstanding inactive tax receivables.

21 “(2) INACTIVE TAX RECEIVABLES.—For pur-
22 poses of this section—

23 “(A) IN GENERAL.—The term ‘inactive tax
24 receivable’ means any tax receivable if—

1 “(i) at any time after assessment, the
2 Internal Revenue Service removes such re-
3 ceivable from the active inventory for lack
4 of resources or inability to locate the tax-
5 payer,

6 “(ii) more than $\frac{1}{3}$ of the period of the
7 applicable statute of limitation has lapsed
8 and no employee of the Internal Revenue
9 Service has been assigned such receivable
10 for collection, or

11 “(iii) in the case of a receivable which
12 has been assigned for collection, more than
13 365 days have passed without interaction
14 with the taxpayer or a third party for pur-
15 poses of furthering the collection of such
16 receivable.

17 “(B) TAX RECEIVABLE.—The term ‘tax re-
18 ceivable’ means any outstanding assessment
19 which the Internal Revenue Service includes in
20 potentially collectible inventory.”.

21 (b) CERTAIN TAX RECEIVABLES NOT ELIGIBLE FOR
22 COLLECTION UNDER QUALIFIED TAX COLLECTION CON-
23 TRACTS.—Section 6306, as amended by subsection (a), is
24 amended by redesignating subsections (d) through (g) as

1 subsections (e) through (h), respectively, and by inserting
2 after subsection (c) the following new subsection:

3 “(d) CERTAIN TAX RECEIVABLES NOT ELIGIBLE
4 FOR COLLECTION UNDER QUALIFIED TAX COLLECTIONS
5 CONTRACTS.—A tax receivable shall not be eligible for col-
6 lection pursuant to a qualified tax collection contract if
7 such receivable—

8 “(1) is subject to a pending or active offer-in-
9 compromise or installment agreement,

10 “(2) is classified as an innocent spouse case,

11 “(3) involves a taxpayer identified by the Sec-
12 retary as being—

13 “(A) deceased,

14 “(B) under the age of 18,

15 “(C) in a designated combat zone, or

16 “(D) a victim of identity theft,

17 “(4) is currently under examination, litigation,
18 criminal investigation, or levy, or

19 “(5) is currently subject to a proper exercise of
20 a right of appeal under this title.”.

21 (e) CONTRACTING PRIORITY.—Section 6306, as
22 amended by the preceding provisions of this section, is
23 amended by redesignating subsection (h) as subsection (i)
24 and by inserting after subsection (g) the following new
25 subsection:

1 “(h) CONTRACTING PRIORITY.—In contracting for
2 the services of any person under this section, the Secretary
3 shall give priority to private collection contractors and
4 debt collection centers on the schedule required under sec-
5 tion 3711(g) of title 31, United States Code, to the extent
6 such private collection contractors and debt collection cen-
7 ters are appropriate to carry out the purposes of this sec-
8 tion.”.

9 (d) DISCLOSURE OF RETURN INFORMATION.—Sec-
10 tion 6103(k) is amended by adding at the end the fol-
11 lowing new paragraph:

12 “(11) QUALIFIED TAX COLLECTION CONTRAC-
13 TORS.—Persons providing services pursuant to a
14 qualified tax collection contract under section 6306
15 may, if speaking to a person who has identified him-
16 self or herself as having the name of the taxpayer
17 to which a tax receivable (within the meaning of
18 such section) relates, identify themselves as contrac-
19 tors of the Internal Revenue Service and disclose the
20 business name of the contractor, and the nature,
21 subject, and reason for the contact. Disclosures
22 under this paragraph shall be made only in such sit-
23 uations and under such conditions as have been ap-
24 proved by the Secretary.”.

1 (e) TAXPAYERS AFFECTED BY FEDERALLY DE-
2 CLARED DISASTERS.—Section 6306, as amended by the
3 preceding provisions of this section, is amended by redese-
4 ignating subsection (i) as subsection (j) and by inserting
5 after subsection (h) the following new subsection:

6 “(i) TAXPAYERS IN PRESIDENTIALLY DECLARED
7 DISASTER AREAS.—The Secretary may prescribe proce-
8 dures under which a taxpayer determined to be affected
9 by a federally declared disaster (as defined by section
10 165(i)(5)) may request—

11 “(1) relief from immediate collection measures
12 by contractors under this section, and

13 “(2) a return of the inactive tax receivable to
14 the Internal Revenue Service for collection.”.

15 (f) REPORT TO CONGRESS.—

16 (1) IN GENERAL.—Section 6306, as amended
17 by the preceding provisions of this section, is amend-
18 ed by redesignating subsection (j) as subsection (k)
19 and by inserting after subsection (i) the following
20 new subsection:

21 “(j) REPORT TO CONGRESS.—Not later than 90 days
22 after each fiscal year ending on September 30, the Sec-
23 retary shall submit to the Committee on Ways and Means
24 of the House of Representatives and the Committee on
25 Finance of the Senate a report with respect to qualified

1 tax collection contracts under this section which shall in-
2 clude—

3 “(1) annually (with respect to each such fiscal
4 year beginning with the first such fiscal year ending
5 after the date of the enactment of this subsection)—

6 “(A) the total number and amount of tax
7 receivables provided to each contractor for col-
8 lection under this section,

9 “(B) the total amounts collected (and
10 amounts of installment agreements entered into
11 under subsection (b)(1)(B)) with respect to
12 each contractor and the collection costs in-
13 curred (directly and indirectly) by the Internal
14 Revenue Service with respect to such amounts,

15 “(C) the impact of such contracts on the
16 total number and amount of unpaid assess-
17 ments, and on the number and amount of as-
18 sessments collected by Internal Revenue Service
19 personnel after initial contact by a contractor,

20 “(D) the amount of fees retained by the
21 Secretary under subsection (e) and a descrip-
22 tion of the use of such funds, and

23 “(E) a disclosure safeguard report in a
24 form similar to that required under section
25 6103(p)(5), and

1 “(2) biannually (beginning with the second re-
2 port submitted under this subsection)—

3 “(A) an independent evaluation of con-
4 tractor performance; and

5 “(B) a measurement plan that includes a
6 comparison of the best practices used by the
7 private collectors to the collection techniques
8 used by the Internal Revenue Service and
9 mechanisms to identify and capture information
10 on successful collection techniques used by the
11 contractors that could be adopted by the Inter-
12 nal Revenue Service.”.

13 (2) REPEAL OF EXISTING REPORTING REQUIRE-
14 MENTS WITH RESPECT TO QUALIFIED TAX COLLEC-
15 TION CONTRACTS.—Section 881 of the American
16 Jobs Creation Act of 2004 is amended by striking
17 subsection (e).

18 (g) EFFECTIVE DATES.—

19 (1) IN GENERAL.—The amendments made by
20 subsections (a) and (b) shall apply to tax receivables
21 identified by the Secretary after the date of the en-
22 actment of this Act.

23 (2) CONTRACTING PRIORITY.—The amendments
24 made by subsection (c) shall apply to contracts and

1 agreements entered into after the date of the enact-
2 ment of this Act.

3 (3) DISCLOSURES.—The amendments made by
4 subsection (d) shall apply to disclosures made after
5 the date of the enactment of this Act.

6 (4) PROCEDURES; REPORT TO CONGRESS.—The
7 amendments made by subsections (e) and (f) shall
8 take effect on the date of the enactment of this Act.

9 **SEC. 6305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS**
10 **TO MEDICARE PROVIDERS AND SUPPLIERS.**

11 (a) IN GENERAL.—Paragraph (3) of section 6331(h)
12 is amended by striking the period at the end and inserting
13 “, or to a Medicare provider or supplier under title XVIII
14 of the Social Security Act.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to levies issued after the date of
17 the enactment of this Act.

18 **SEC. 6306. TREATMENT OF REFUNDABLE CREDITS FOR**
19 **PURPOSES OF CERTAIN PENALTIES.**

20 (a) APPLICATION OF UNDERPAYMENT PENALTIES.—
21 Section 6664(a) is amended by adding at the end the fol-
22 lowing: “A rule similar to the rule of section 6211(b)(4)
23 shall apply for purposes of this subsection.”.

24 (b) PENALTY FOR ERRONEOUS CLAIM OF CREDIT
25 MADE APPLICABLE TO EARNED INCOME CREDIT.—Sec-

1 tion 6676(a) is amended by striking “(other than a claim
2 for a refund or credit relating to the earned income credit
3 under section 32)”.

4 (c) EFFECTIVE DATES.—

5 (1) UNDERPAYMENT PENALTIES.—The amend-
6 ment made by subsection (a) shall apply to—

7 (A) returns filed after February 26, 2014,
8 and

9 (B) returns filed on or before such date if
10 the period specified in section 6501 of the In-
11 ternal Revenue Code of 1986 for assessment of
12 the taxes with respect to which such return re-
13 lates has not expired as of such date.

14 (2) PENALTY FOR ERRONEOUS CLAIM OF CRED-
15 IT.—The amendment made by subsection (b) shall
16 apply to claims filed after February 26, 2014.

17 **TITLE VII—EXCISE TAXES**

18 **SEC. 7001. REPEAL OF MEDICAL DEVICE EXCISE TAX.**

19 (a) IN GENERAL.—Chapter 32 is amended by strik-
20 ing subchapter E.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Subsection (a) of section 4221 is amended
23 by striking the last sentence.

24 (2) Paragraph (2) of section 6416(b) is amend-
25 ed by striking the last sentence.

1 (c) CLERICAL AMENDMENT.—The table of sub-
2 chapters for chapter 32 is amended by striking the item
3 relating to subchapter E.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to sales after the date of the enact-
6 ment of this Act.

7 **SEC. 7002. MODIFICATIONS RELATING TO OIL SPILL LI-**
8 **ABILITY TRUST FUND.**

9 (a) EXTENSION OF OIL SPILL LIABILITY TRUST
10 FUND FINANCING RATE.—Paragraph (2) of section
11 4611(f) is amended by striking “December 31, 2017” and
12 inserting “December 31, 2023”.

13 (b) APPLICATION WITH RESPECT TO BITUMEN AND
14 BITUMINOUS MIXTURES AND SHALE OIL.—Paragraph
15 (1) of section 4612(a) is amended to read as follows:

16 “(1) CRUDE OIL.—The term ‘crude oil’ includes
17 crude oil condensates, natural gasoline, any bitumen
18 or bituminous mixture, any oil derived from a bitu-
19 men or bituminous mixture, shale oil, and any oil de-
20 rived from kerogen-bearing sources.”.

21 (c) CONFORMING AMENDMENT.—Paragraph (2) of
22 section 4612(a) is amended by striking “from a well lo-
23 cated”.

24 (d) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to oil and petroleum products re-

1 ceived or entered during calendar quarters beginning more
2 than 60 days after the date of the enactment of this Act.

3 **SEC. 7003. MODIFICATION RELATING TO INLAND WATER-**
4 **WAYS TRUST FUND FINANCING RATE.**

5 (a) IN GENERAL.—Section 4042(b)(2)(A) is amend-
6 ed to read as follows:

7 “(A) The Inland Waterways Trust Fund
8 financing rate is 26 cents per gallon.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to fuel used after December 31,
11 2014.

12 **SEC. 7004. EXCISE TAX ON SYSTEMICALLY IMPORTANT FI-**
13 **NANCIAL INSTITUTIONS.**

14 (a) IN GENERAL.—Chapter 36 is amended by adding
15 at the end the following new subchapter:

16 **“Subchapter E—Tax on Systemically**
17 **Important Financial Institutions**

“Sec. 4491. Tax on systemically important financial institutions.

18 **“SEC. 4491. TAX ON SYSTEMICALLY IMPORTANT FINANCIAL**
19 **INSTITUTIONS.**

20 “(a) IN GENERAL.—There is hereby imposed a tax
21 on the excess total consolidated assets of any systemically
22 important financial institution on the close of each cal-
23 endar quarter.

1 “(b) AMOUNT OF TAX.—The rate of tax imposed by
2 subsection (a) is 0.035 percent of such excess total consoli-
3 dated assets.

4 “(c) BY WHOM PAID.—The tax imposed by sub-
5 section (a) shall be paid by the systemically important fi-
6 nancial institution.

7 “(d) DUE DATE.—The tax imposed by subsection (a)
8 for a calendar quarter shall be due on the first day of
9 the third month beginning after the close of such quarter.

10 “(e) SYSTEMICALLY IMPORTANT FINANCIAL INSTI-
11 TUTION.—For purposes of this section, the term ‘system-
12 ically important financial institution’ means any person
13 subject to section 165 of the Dodd-Frank Wall Street Re-
14 form and Consumer Protection Act.

15 “(f) EXCESS TOTAL CONSOLIDATED ASSETS.—For
16 purposes of this section, the term ‘excess total consoli-
17 dated assets’ means the excess of—

18 “(1) total consolidated assets (within the mean-
19 ing of section 165 of the Dodd-Frank Wall Street
20 Reform and Consumer Protection Act), over

21 “(2) \$500,000,000,000.

22 “(g) ADJUSTMENT OF DOLLAR AMOUNT.—

23 “(1) IN GENERAL.—In the case of any calendar
24 year beginning after 2015, there shall be substituted
25 for the dollar amount in subsection (f)(2) a dollar

1 amount which bears the same ratio to such amount
2 (determined without regard to this subsection) as—

3 “(A) the GDP for the preceding calendar
4 year, bears to

5 “(B) the GDP for 2014.

6 Any dollar amount determined under this paragraph
7 for substitution in subsection (f)(2) which is not a
8 multiple of \$1,000,000,000 shall be rounded to the
9 nearest multiple of \$1,000,000,000.

10 “(2) GDP.—For purposes of this subsection,
11 the GDP for any calendar year means the latest es-
12 timate of the gross domestic product published by
13 the Department of Commerce for the preceding cal-
14 endar year.

15 “(h) TREATMENT OF CERTAIN REFERENCES.—Any
16 reference in this section to any provision of the Dodd-
17 Frank Wall Street Reform and Consumer Protection Act
18 shall be treated as a reference to such provision as in ef-
19 fect on the date of the enactment of this section.”.

20 (b) CLERICAL AMENDMENT.—The table of sub-
21 chapters for chapter 36 is amended by adding at the end
22 the following new item:

“SUBCHAPTER E. TAX ON SYSTEMICALLY IMPORTANT FINANCIAL
INSTITUTIONS.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to calendar quarters beginning
3 after December 31, 2014.

4 **SEC. 7005. CLARIFICATION OF ORPHAN DRUG EXCEPTION**
5 **TO ANNUAL FEE ON BRANDED PRESCRIP-**
6 **TION PHARMACEUTICAL MANUFACTURERS**
7 **AND IMPORTERS.**

8 (a) IN GENERAL.—Paragraph (3) of section 9008(e)
9 of the Patient Protection and Affordable Care Act (Public
10 Law 111–148) is amended to read as follows:

11 “(3) EXCLUSION OF ORPHAN DRUG SALES.—

12 “(A) IN GENERAL.—The term ‘branded
13 prescription drug sales’ shall not include sales
14 of any drug or biological product—

15 “(i) with respect to which a credit was
16 allowed for any taxable year under section
17 45C of the Internal Revenue Code of 1986
18 (as in effect before its repeal by the Tax
19 Reform Act of 2014); or

20 “(ii) which is approved or licensed by
21 the Food and Drug Administration for
22 marketing solely for one or more rare dis-
23 eases or conditions.

24 “(B) LIMITATION.—Subparagraph (A)
25 shall not apply with respect to any drug or bio-

1 logical product after the date on which the drug
2 or biological product is approved or licensed by
3 the Food and Drug Administration for mar-
4 keting for any indication other than the treat-
5 ment of a rare disease or condition.

6 “(C) RARE DISEASE OR CONDITION.—

7 “(i) IN GENERAL.—For purposes of
8 this paragraph, the term ‘rare disease or
9 condition’ means any disease or condition
10 which—

11 “(I) affects less than 200,000
12 persons in the United States, or

13 “(II) affects more than 200,000
14 persons in the United States but for
15 which there is no reasonable expecta-
16 tion that the cost of developing and
17 making available in the United States
18 a drug or biological product for such
19 disease or condition will be recovered
20 from sales in the United States of
21 such drug or biological product.

22 “(ii) TIME OF DETERMINATION.—De-
23 terminations under the preceding sentence
24 with respect to any drug or biological prod-

1 uct shall be made on the basis of the facts
2 and circumstances as of—

3 “(I) in the case a drug or biologi-
4 cal product that has been designated
5 under section 526 of the Federal
6 Food, Drug, and Cosmetic Act for a
7 particular indication, the date of such
8 designation, and

9 “(II) in any other case, the date
10 such drug or biological product is ap-
11 proved or licensed by the Food and
12 Drug Administration for marketing
13 for the treatment of the disease or
14 condition referred to in clause (i).”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to fees imposed under section
17 9008(a)(1) of the Patient Protection and Affordable Care
18 Act with annual payment dates after 2013.

19 **TITLE VIII—DEADWOOD AND**
20 **TECHNICAL PROVISIONS**

21 **Subtitle A—Repeal of Deadwood**

22 **SEC. 8001. REPEAL OF PUERTO RICO ECONOMIC ACTIVITY**

23 **CREDIT.**

24 Subpart B of part IV of subchapter A of chapter 1
25 is amended by striking section 30A (and by striking the

1 item relating to such section in the table of sections of
2 such subpart).

3 **SEC. 8002. REPEAL OF MAKING WORK PAY CREDIT.**

4 (a) IN GENERAL.—Subpart C of part IV of sub-
5 chapter A of chapter 1 is amended by striking section 36A
6 (and by striking the item relating to such section in the
7 table of sections of such subpart).

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 6211(b)(4)(A) is amended by strik-
10 ing “36A.”

11 (2) Section 6213(g)(2) is amended by striking
12 subparagraph (N).

13 **SEC. 8003. GENERAL BUSINESS CREDIT.**

14 Subsection (d) of section 38 is amended by striking
15 paragraph (3).

16 **SEC. 8004. ENVIRONMENTAL TAX.**

17 (a) IN GENERAL.—Subchapter A of chapter 1 is
18 amended by striking part VII (and the table of parts for
19 such chapter is amended by striking the item relating to
20 part VII).

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 26(b)(2) is amended by striking
23 subparagraph (B).

24 (2) Section 164(a) is amended by striking para-
25 graph (5).

1 (3) Section 275(a) is amended by striking the
2 last sentence.

3 (4) Section 882(a)(1) is amended by striking
4 “59A,”.

5 (5) Section 6425(c)(1)(A), as amended by the
6 preceding provisions of this Act, is amended to read
7 as follows:

8 “(A) the tax imposed by section 11 or
9 1201(a), or subchapter L of chapter 1, which-
10 ever is applicable, over”.

11 (6) Section 6655(g)(1)(A), as amended by the
12 preceding provisions of this Act, is amended by add-
13 ing “plus” at the end of clause (i) and by striking
14 clause (ii).

15 **SEC. 8005. ANNUITIES; CERTAIN PROCEEDS OF ENDOW-**
16 **MENT AND LIFE INSURANCE CONTRACTS.**

17 Section 72 is amended—

18 (1) in subsection (c)(4) by striking “; except
19 that if such date was before January 1, 1954, then
20 the annuity starting date is January 1, 1954”, and

21 (2) in subsection (g)(3) by striking “January 1,
22 1954, or” and “, whichever is later”.

23 **SEC. 8006. UNEMPLOYMENT COMPENSATION.**

24 Section 85 is amended by striking subsection (c).

1 **SEC. 8007. FLEXIBLE SPENDING ARRANGEMENTS.**

2 Section 106(c)(1) is amended by striking “Effective
3 on and after January 1, 1997, gross” and inserting
4 “Gross”.

5 **SEC. 8008. CERTAIN COMBAT ZONE COMPENSATION OF**
6 **MEMBERS OF THE ARMED FORCES.**

7 Subsection (c) of section 112 is amended—

8 (1) by striking “(after June 24, 1950)” in
9 paragraph (2), and

10 (2) striking “such zone;” and all that follows in
11 paragraph (3) and inserting “such zone.”.

12 **SEC. 8009. QUALIFIED GROUP LEGAL SERVICES PLANS.**

13 (a) **IN GENERAL.**—Part III of subchapter B of chap-
14 ter 1 is amended by striking section 120 (and by striking
15 the item relating to such section in the table of sections
16 for such part).

17 (b) **TAX-EXEMPTION OF GROUP LEGAL SERVICES**
18 **PLANS.**—Section 501(c) is amended by striking paragraph
19 (20).

20 (c) **CONFORMING AMENDMENTS.**—

21 (1) Section 414(n)(3)(C) is amended by strik-
22 ing “120,”.

23 (2) Section 414(t)(2) is amended by striking
24 “120,”.

25 (3) Section 3121(a) is amended by striking
26 paragraph (17).

1 (4) Section 3231(e) is amended by striking
2 paragraph (7).

3 (5) Section 3306(b) is amended by striking
4 paragraph (12).

5 (6) Section 6039D(d)(1) is amended by striking
6 “120,”.

7 (7) Section 209(a)(14) of the Social Security
8 Act is amended—

9 (A) by striking subparagraph (B), and

10 (B) by striking “(14)(A)” and inserting
11 “(14)”.

12 **SEC. 8010. CERTAIN REDUCED UNIFORMED SERVICES RE-**
13 **TIREMENT PAY.**

14 Section 122(b)(1) is amended by striking “after De-
15 cember 31, 1965,”.

16 **SEC. 8011. GREAT PLAINS CONSERVATION PROGRAM.**

17 Section 126(a) is amended by striking paragraph (6)
18 and by redesignating paragraphs (7),(8), (9), and (10) as
19 paragraphs (6), (7), (8), and (9), respectively.

20 **SEC. 8012. STATE LEGISLATORS’ TRAVEL EXPENSES AWAY**
21 **FROM HOME.**

22 Paragraph (4) of section 162(h) is amended by strik-
23 ing “For taxable years beginning after December 31,
24 1980, this” and inserting “This”.

1 **SEC. 8013. TREBLE DAMAGE PAYMENTS UNDER THE ANTI-**
2 **TRUST LAW.**

3 Section 162(g) is amended by striking the last sen-
4 tence.

5 **SEC. 8014. PHASE-IN OF LIMITATION ON INVESTMENT IN-**
6 **TEREST.**

7 Section 163(d) is amended by striking paragraph (6).

8 **SEC. 8015. CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.**

9 Section 170 is amended by striking subsection (k).

10 **SEC. 8016. AMORTIZABLE BOND PREMIUM.**

11 (a) IN GENERAL.—Subparagraph (B) of section
12 171(b)(1) is amended to read as follows:

13 “(B)(i) with reference to the amount pay-
14 able on maturity (or if it results in a smaller
15 amortizable bond premium attributable to the
16 period before the call date, with reference to the
17 amount payable on the earlier call date), in the
18 case of a bond described in subsection (a)(1),
19 and

20 “(ii) with reference to the amount payable
21 on maturity or on an earlier call date, in the
22 case of a bond described in subsection (a)(2).”.

23 (b) CONFORMING AMENDMENTS.—Paragraphs
24 (2)(B) and (3)(B) of section 171(b) are each amended by
25 striking “paragraph (1)(B)(ii)” and inserting “paragraph
26 (1)(B)(i)”.

1 **SEC. 8017. REPEAL OF DEDUCTION FOR CLEAN-FUEL VEHI-**
2 **CLES AND CERTAIN REFUELING PROPERTY.**

3 (a) IN GENERAL.—Part VI of subchapter B of chap-
4 ter 1 is amended by striking section 179A (and by striking
5 the item relating to such section in the table of sections
6 for such part).

7 (b) CONFORMING AMENDMENT.—

8 (1) Section 62(a) is amended by striking para-
9 graph (14).

10 (2) Section 280F(a)(1) is amended by striking
11 subparagraph (C).

12 (3) Section 312(k)(3), as amended by this Act,
13 is amended by striking “, 179A” each place it ap-
14 pears.

15 (4) Section 1016(a) is amended by striking
16 paragraph (24).

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to property placed in service after
19 December 31, 2005.

20 **SEC. 8018. REPEAL OF DEDUCTION FOR CAPITAL COSTS IN-**
21 **CURRED IN COMPLYING WITH ENVIRON-**
22 **MENTAL PROTECTION AGENCY SULFUR REG-**
23 **ULATIONS.**

24 (a) IN GENERAL.—Part VI of subchapter B of chap-
25 ter 1 is amended by striking section 179B (and by striking

1 the item relating to such section in the table of sections
2 for such part).

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 312(k)(3), as amended by this Act,
5 is amended by striking “, 179B” each place it ap-
6 pears.

7 (2) Section 1016(a) is amended by striking
8 paragraph (30).

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to amounts paid or incurred after
11 December 31, 2009.

12 **SEC. 8019. ACTIVITIES NOT ENGAGED IN FOR PROFIT.**

13 Section 183(e)(1) is amended by striking the last sen-
14 tence.

15 **SEC. 8020. DIVIDENDS RECEIVED ON CERTAIN PREFERRED**
16 **STOCK; AND DIVIDENDS PAID ON CERTAIN**
17 **PREFERRED STOCK OF PUBLIC UTILITIES.**

18 (a) IN GENERAL.—Sections 244 and 247 are hereby
19 repealed, and the table of sections for part VIII of sub-
20 chapter B of chapter 1 is amended by striking the items
21 relating to sections 244 and 247.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Paragraph (5) of section 172(d) is amended
24 to read as follows:

1 “(5) COMPUTATION OF DEDUCTION FOR DIVI-
2 DENDS RECEIVED.—The deductions allowed by sec-
3 tion 243 (relating to dividends received by corpora-
4 tions) and 245 (relating to dividends received from
5 certain foreign corporations) shall be computed with-
6 out regard to section 246(b) (relating to limitation
7 on aggregate amount of deductions).”.

8 (2) Paragraph (1) of section 243(c) is amended
9 to read as follows:

10 “(1) IN GENERAL.—In the case of any dividend
11 received from a 20-percent owned corporation, sub-
12 section (a)(1) shall be applied by substituting ‘80
13 percent’ for ‘70 percent’ ”.

14 (3) Section 243(d) is amended by striking para-
15 graph (4).

16 (4) Section 246 is amended—

17 (A) by striking “, 244,” in subsection
18 (a)(1),

19 (B) in subsection (b)(1)—

20 (i) by striking “sections 243(a)(1),
21 244(a),” the first place it appears and in-
22 serting “section 243(a)(1),”

23 (ii) by striking “244(a),” the second
24 place it appears, and

- 1 (iii) by striking “subsection (a) or (b)
2 of section 245, and 247,” and inserting
3 “and subsection (a) or (b) of section
4 245,” and
5 (C) by striking “, 244,” in subsection
6 (c)(1).
- 7 (5) Section 246A is amended by striking “,
8 244,” both places it appears in subsections (a) and
9 (e).
- 10 (6) Sections 263(g)(2)(B)(iii), 277(a),
11 301(e)(2), 469(e)(4), 512(a)(3)(A), 805(a)(4)(A),
12 (C), and (D), 805(b)(4) (as redesignated by this
13 Act), 832(b)(5)(B)(ii), (D)(i), and (D)(ii)(I),
14 833(b)(3)(E), and 1059(b)(2)(B) are each amended
15 by striking “, 244,” each place it appears.
- 16 (7) Section 805(a)(4)(B) is amended by strik-
17 ing “, 244(a),” each place it appears.
- 18 (8) Section 810(e)(2)(B) is amended by striking
19 “244 (relating to dividends on certain preferred
20 stock of public utilities),”.
- 21 (9) Section 1244(e)(2)(C) is amended by strik-
22 ing “244,”.

1 **SEC. 8021. ACQUISITIONS MADE TO EVADE OR AVOID IN-**
2 **COME TAX.**

3 Paragraphs (1) and (2) of section 269(a) are each
4 amended by striking “or acquired on or after October 8,
5 1940.”.

6 **SEC. 8022. DISTRIBUTIONS OF PROPERTY.**

7 Paragraph (3) of section 301(c) is amended to read
8 as follows:

9 “(3) AMOUNTS IN EXCESS OF BASIS.—That
10 portion of the distribution which is not a dividend,
11 to the extent that it exceeds the adjusted basis of
12 the stock, shall be treated as gain from the sale or
13 exchange of property.”.

14 **SEC. 8023. EFFECT ON EARNINGS AND PROFITS.**

15 Subsection (d) of section 312 is amended by striking
16 paragraph (2) and redesignating paragraph (3) as para-
17 graph (2).

18 **SEC. 8024. BASIS TO CORPORATIONS.**

19 Section 362(a) is amended by striking “on or after
20 June 22, 1954.”.

21 **SEC. 8025. TAX CREDIT EMPLOYEE STOCK OWNERSHIP**
22 **PLANS.**

23 Section 409 is amended by striking subsection (q).

24 **SEC. 8026. EMPLOYEE STOCK PURCHASE PLANS.**

25 Section 423(a) is amended by striking “after Decem-
26 ber 31, 1963”.

1 **SEC. 8027. TRANSITION RULES.**

2 (a) Paragraph (5) of section 430(c) is amended by
3 striking subparagraph (B) and by striking “(A) IN GEN-
4 ERAL.—”.

5 (b) Paragraph (2) of section 430(h) is amended by
6 striking subparagraph (G).

7 (c) Paragraph (3) of section 436(j) is amended by
8 striking subparagraphs (B) and (C) and by striking “(A)
9 IN GENERAL.—”

10 (d) Section 436 is amended by striking subsection
11 (m).

12 **SEC. 8028. LIMITATION ON DEDUCTIONS FOR CERTAIN**
13 **FARMING.**

14 (a) IN GENERAL.—Section 464 is amended by strik-
15 ing “any farming syndicate (as defined in subsection (c))”
16 both places it appears in subsections (a) and (b) and in-
17 serting “any taxpayer to whom subsection (d) applies”.

18 (b) FARMING SYNDICATE.—

19 (1) Subsection (e) of section 464 is hereby
20 moved to the end of section 461 and redesignated as
21 subsection (j).

22 (2) Such subsection (j) is amended—

23 (A) by striking “For purposes of this sec-
24 tion” in paragraph (1) and inserting “For pur-
25 poses of subsection (i)(4)”, and

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

3 “(3) FARMING.—For purposes of this sub-
4 section, the term ‘farming’ has the meaning given to
5 such term by section 464(e).

6 “(4) LIMITED ENTREPRENEUR.—For purposes
7 of this subsection, the term ‘limited entrepreneur’
8 means a person who—

9 “(A) has an interest in an enterprise other
10 than as a limited partner, and

11 “(B) does not actively participate in the
12 management of such enterprise.”.

13 (C) Paragraph (4) of section 461(i) is
14 amended by striking “section 464(c)” and in-
15 serting “subsection (j)”.

16 (c) Section 464 is amended—

17 (1) by striking subsections (e) and (g) and re-
18 designating subsections (d) and (f) as subsections
19 (e) and (d), respectively, and

20 (2) by inserting after subsection (d) the fol-
21 lowing new subsection:

22 “(e) FARMING.—For purposes of this section, the
23 term ‘farming’ means the cultivation of land or the raising
24 or harvesting of any agricultural or horticultural com-
25 modity including the raising, shearing, feeding, caring for,

1 training, and management of animals. For purposes of the
2 preceding sentence, trees (other than trees bearing fruit
3 or nuts) shall not be treated as an agricultural or horti-
4 cultural commodity.”.

5 (d) Subsection (d) of section 464 of such Code, as
6 redesignated by subsection (c), is amended—

7 (1) by striking paragraph (1) and redesignating
8 paragraphs (2), (3), and (4) as paragraphs (1), (2),
9 and (3), respectively, and

10 (2) by striking “SUBSECTIONS (A) AND (B)
11 TO APPLY TO” in the subsection heading.

12 (e) Subparagraph (A) of section 58(a)(2) is amended
13 by striking “section 464(c)” and inserting “section
14 461(j)”.

15 **SEC. 8029. DEDUCTIONS LIMITED TO AMOUNT AT RISK.**

16 Paragraph (3) of section 465(c) is amended by strik-
17 ing “In the case of taxable years beginning after Decem-
18 ber 31, 1978, this” and inserting “This”.

19 **SEC. 8030. PASSIVE ACTIVITY LOSSES AND CREDITS LIM-
20 ITED.**

21 Section 469 is amended by striking subsection (m).

22 **SEC. 8031. ADJUSTMENTS REQUIRED BY CHANGES IN
23 METHOD OF ACCOUNTING.**

24 Section 481(b)(3) is amended by striking subpara-
25 graph (C).

1 **SEC. 8032. EXEMPTION FROM TAX ON CORPORATIONS, CER-**
2 **TAIN TRUSTS, ETC.**

3 Section 501 is amended by striking subsection (s).

4 **SEC. 8033. REQUIREMENTS FOR EXEMPTION.**

5 (a) Section 503(a)(1) is amended to read as follows:

6 “(1) GENERAL RULE.—An organization de-
7 scribed in paragraph (17) or (18) of section 501(e)
8 or described in section 401(a) and referred to in sec-
9 tion 4975(g)(2) or (3) shall not be exempt from tax-
10 ation under section 501(a) if it has engaged in a
11 prohibited transaction.”.

12 (b) Paragraph (2) of section 503(a) is amended by
13 striking “described in section 501(e)(17) or (18) or para-
14 graph (a)(1)(B)” and inserting “described in paragraph
15 (1)”.

16 (c) Subsection (e) of section 503 is amended by strik-
17 ing “described in section 501(e)(17) or (18) or subsection
18 (a)(1)(B)” and inserting “described in subsection (a)(1)”.

19 **SEC. 8034. REPEAL OF SPECIAL TREATMENT FOR RELI-**
20 **GIOUS BROADCASTING COMPANY.**

21 (a) IN GENERAL.—Subsection (b) of section 512 is
22 amended by striking paragraph (15).

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply to taxable years beginning after
25 the date of the enactment of this Act.

1 **SEC. 8035. REPEAL OF EXCLUSION OF GAIN OR LOSS FROM**
2 **DISPOSITION OF BROWNFIELD PROPERTY.**

3 (a) IN GENERAL.—Subsection (b) of section 512 is
4 amended by striking paragraph (19).

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to property acquired after Decem-
7 ber 31, 2009.

8 **SEC. 8036. ACCUMULATED TAXABLE INCOME.**

9 Paragraph (1) of section 535(b) and paragraph (1)
10 of section 545(b) are each amended by striking “section
11 531” and all that follows and inserting “section 531 or
12 the personal holding company tax imposed by section
13 541.”.

14 **SEC. 8037. CERTAIN PROVISIONS RELATED TO DEPLETION.**

15 (a) Section 614(b)(3) (before being redesignated by
16 title III) is amended by striking subparagraph (C).

17 (b) Section 614(b)(4) (before being redesignated by
18 title III) is amended by striking “whichever of the fol-
19 lowing taxable years is the later: The first taxable year
20 beginning after December 31, 1963, or”.

21 (c) Section 614(b) (before being redesignated by title
22 III) is amended by striking paragraph (5).

1 **SEC. 8038. AMOUNTS RECEIVED BY SURVIVING ANNUITANT**
2 **UNDER JOINT AND SURVIVOR ANNUITY CON-**
3 **TRACT.**

4 Subparagraph (A) of section 691(d)(1) is amended
5 by striking “after December 31, 1953, and”.

6 **SEC. 8039. INCOME TAXES OF MEMBERS OF ARMED FORCES**
7 **ON DEATH.**

8 Section 692(a)(1) is amended by striking “after June
9 24, 1950”.

10 **SEC. 8040. SPECIAL RULES FOR COMPUTING RESERVES.**

11 Paragraph (7) of section 807(e) is amended by strik-
12 ing subparagraph (B) and redesignating subparagraph
13 (C) as subparagraph (B).

14 **SEC. 8041. INSURANCE COMPANY TAXABLE INCOME.**

15 (a) Section 832(e) is amended by striking “of taxable
16 years beginning after December 31, 1966,”.

17 (b) Section 832(e)(6) is amended by striking “In the
18 case of any taxable year beginning after December 31,
19 1970, the” and inserting “The”.

20 **SEC. 8042. CAPITALIZATION OF CERTAIN POLICY ACQUI-**
21 **SION EXPENSES.**

22 Section 848 (as amended by title II) is amended by
23 striking subsection (i).

1 **SEC. 8043. REPEAL OF PROVISION ON EXPATRIATION TO**
2 **AVOID TAX.**

3 (a) IN GENERAL.—Subpart A of part II of sub-
4 chapter N of chapter 1 is amended by striking section 877
5 (and by striking the item relating to such section in the
6 table of sections for such subpart).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 2(d) is amended by striking “or
9 877”.

10 (2) Section 121 is amended by striking sub-
11 section (e).

12 (3) Section 865(j)(3) is amended by inserting
13 “as in effect before its repeal” after “section 877”.

14 (4) Paragraph (2) of section 871(o) (as amend-
15 ed by this Act) is amended to read as follows:

16 “(2) For taxation of covered expatriates, see
17 section 877A.”.

18 (5)(A) Section 877A(g)(1)(A) is amended to
19 read as follows:

20 “(A) IN GENERAL.—The term ‘covered ex-
21 patriate’ means any expatriate if—

22 “(i) the average annual net income
23 tax of such individual for the period of 5
24 taxable years ending before the date of the
25 loss of United States citizenship is greater
26 than \$124,000,

1 “(ii) the net worth of the individual as
2 of such date is \$2,000,000 or more, or

3 “(iii) such individual fails to certify
4 under penalty of perjury that he has met
5 the requirements of this title for the 5 pre-
6 ceding taxable years or fails to submit such
7 evidence of such compliance as the Sec-
8 retary may require.”.

9 (B) Section 877A(g)(1)(B) is amended by strik-
10 ing “shall not be treated as meeting the require-
11 ments of subparagraph (A) or (B) of section
12 877(a)(2)” and inserting “shall not be treated as de-
13 scribed in clause (i) or (ii) of subparagraph (A)”.

14 (C) Section 877A(g)(1) is amended by redesignig-
15 nating subparagraph (C) as subparagraph (D) and
16 inserting after subparagraph (B) the following new
17 subparagraph:

18 “(C) NET INCOME TAX.—For purposes of
19 subparagraph (A), the term ‘net income tax’
20 means the regular tax liability reduced by the
21 credits allowed under subparts A, B, and D of
22 part IV of subchapter A.”.

23 (D) Section 877A(g)(1), as amended by sub-
24 paragraph (C), is amended by adding at the end the
25 following new subparagraph:

1 “(E) INFLATION ADJUSTMENT.—In the
2 case of the loss of United States citizenship in
3 any calendar year after 2007, the dollar amount
4 in subparagraph (A)(i) shall be increased by an
5 amount equal to—

6 “(i) such dollar amount, multiplied by

7 “(ii) the cost-of-living adjustment de-
8 termined under section 1(c)(2)(A) for the
9 calendar year in which such loss of United
10 States citizenship occurs determined by
11 substituting ‘calendar year 2003’ for ‘cal-
12 endar year 2012’ in clause (ii) thereof.

13 Any increase determined under the preceding
14 sentence shall be rounded to the nearest mul-
15 tiple of \$1,000.”.

16 (E) Section 877A(g)(5) is amended to read as
17 follows:

18 “(5) LONG-TERM RESIDENT.—The term ‘long-
19 term resident’ means any individual (other than a
20 citizen of the United States) who is a lawful perma-
21 nent resident of the United States in at least 8 tax-
22 able years during the period of 15 taxable years end-
23 ing with the taxable year during which the event de-
24 scribed in subparagraph (A) or (B) of paragraph (2)
25 occurs. For purposes of the preceding sentence, an

1 individual shall not be treated as a lawful permanent
2 resident for any taxable year if such individual is
3 treated as a resident of a foreign country for the
4 taxable year under the provisions of a tax treaty be-
5 tween the United States and the foreign country and
6 does not waive the benefits of such treaty applicable
7 to residents of the foreign country.”.

8 (6) Section 894(b) is amended by striking the
9 last sentence.

10 (7) Section 2107 is amended by striking sub-
11 section (e).

12 (8) Section 2501(a) is amended by striking
13 paragraphs (3) and (5) and by redesignating para-
14 graph (4) as paragraph (3).

15 (9) Section 3405(e)(13)(B) is amended by
16 striking “that such person is not—” and all that fol-
17 lows and inserting “that such person is not a United
18 States citizen or a resident alien of the United
19 States.”.

20 (10) Section 6039G(a) is amended by striking
21 “section 877(b) or 877A” and inserting “section
22 877A”.

23 (11) Section 6039G(d) is amended by striking
24 “section 877(a) or 877A” and inserting “section
25 877A”.

1 (12) Section 7701(b) is amended by striking
2 paragraph (10) and by redesignating paragraph (11)
3 as paragraph (10).

4 (c) EFFECTIVE DATE.—The amendments made by
5 this subsection shall apply to individuals whose expatria-
6 tion date (as defined in section 877A(g)(3) of the Internal
7 Revenue Code of 1986) is on or after June 17, 2008.

8 **SEC. 8044. REPEAL OF CERTAIN TRANSITION RULES ON IN-**
9 **COME FROM SOURCES WITHOUT UNITED**
10 **STATES.**

11 (a) LIMITATION ON CREDIT.—Paragraph (2) of sec-
12 tion 904(d) is amended by striking subparagraph (J).

13 (b) FOREIGN EARNED INCOME.—Clause (i) of section
14 911(b)(2)(D) is amended to read as follows:

15 “(i) IN GENERAL.—The exclusion
16 amount for any calendar year is \$80,000.”.

17 **SEC. 8045. REPEAL OF PUERTO RICO AND POSSESSION TAX**
18 **CREDIT.**

19 (a) IN GENERAL.—Subpart D of part III of sub-
20 chapter N of chapter 1 is amended by striking section 936
21 (and by striking the item relating to such section in the
22 table of sections of such subpart).

23 (b) CONFORMING AMENDMENTS.—

24 (1)(A) Section 27 is amended to read as fol-
25 lows:

1 **“SEC. 27. TAXES OF FOREIGN COUNTRIES AND POSSES-**
2 **SIONS OF THE UNITED STATES.**

3 “The amount of taxes imposed by foreign countries
4 and possessions of the United States shall be allowed as
5 a credit against the tax imposed by this chapter to the
6 extent provided in section 901.”.

7 (B) The item relating to section 27 in the table
8 of sections for subpart B of part IV of subchapter
9 A of chapter 1 is amended to read as follows:

“Sec. 27. Taxes of foreign countries and possessions of the United States.”.

10 (2) Section 243(b)(1)(B) is amended to read as
11 follows:

12 “(B) if such dividend is distributed out of
13 the earnings and profits of a taxable year of the
14 distributing corporation which ends after De-
15 cember 31, 1963, and on each day of which the
16 distributing corporation and the corporation re-
17 ceiving the dividend were members of such af-
18 filiated group.”.

19 (3) Section 246 is amended by striking sub-
20 section (e).

21 (4) Section 338(h)(6)(B)(i) is amended by
22 striking “, a DISC, or a corporation to which an
23 election under section 936 applies” and inserting “or
24 a DISC”.

25 (5) Section 861(a)(2) is amended—

1 (A) by striking subparagraph (A) and by
2 redesignating subparagraphs (B), (C), and (D)
3 as subparagraphs (A), (B), and (C), respec-
4 tively, and

5 (B) by striking “subparagraph (B)” each
6 place it appears and inserting “subparagraph
7 (A)”.

8 (6) Section 864(d)(5) is amended to read as fol-
9 lows:

10 “(5) CERTAIN PROVISIONS NOT TO APPLY.—
11 The following provisions shall not apply to any
12 amount treated as interest under paragraph (1) or
13 (6):

14 “(A) Section 904(d)(2)(B)(iii)(I) (relating
15 to exceptions for export financing interest).

16 “(B) Subparagraph (A) of section
17 954(b)(3) (relating to exception where foreign
18 base company income is less than 5 percent or
19 \$1,000,000).

20 “(C) Subparagraph (B) of section
21 954(e)(2) (relating to certain export financing).

22 “(D) Clause (i) of section 954(e)(3)(A)
23 (relating to certain income received from related
24 persons).”.

1 (7) Section 865(j)(3) is amended by striking “,
2 933, and 936” and inserting “and 933”.

3 (8) Section 901(g)(2) is amended by inserting
4 “(as in effect before its repeal)” after “936”.

5 (9) Section 904(b) is amended by striking para-
6 graph (4).

7 (10) Section 1202(e)(4) is amended by striking
8 subparagraph (B) and by redesignating subpara-
9 graphs (C) and (D) as subparagraphs (B) and (C),
10 respectively.

11 (11) Section 1361(b)(2) is amended by adding
12 “or” at the end of subparagraph (B), by striking
13 subparagraph (C), and by redesignating subpara-
14 graph (D) as subparagraph (C).

15 (12) Section 1504(b) is amended by striking
16 paragraph (4).

17 (13) Section 6091(b)(2)(B) is amended by
18 striking clause (ii) and by redesignating clauses (iii)
19 and (iv) as clauses (ii) and (iii), respectively.

20 (14) Section 6654(d)(2)(D) is amended—

21 (A) by striking “936(h) or” in clause (i),
22 and

23 (B) by striking “AND SECTION 936” in the
24 heading.

25 (15) Section 6655(e)(4) is amended—

1 (A) by striking “936(h) or” in subpara-
2 graph (A), and

3 (B) by striking “AND SECTION 936” in the
4 heading.

5 (16)(A) Section 367(d) is amended by adding
6 at the end the following new paragraph:

7 “(4) INTANGIBLE PROPERTY.—For purposes of
8 this subsection, the term ‘intangible property’ means
9 any—

10 “(A) patent, invention, formula, process,
11 design, pattern, or know-how,

12 “(B) copyright, literary, musical, or artis-
13 tic composition,

14 “(C) trademark, trade name, or brand
15 name,

16 “(D) franchise, license, or contract,

17 “(E) method, program, system, procedure,
18 campaign, survey, study, forecast, estimate,
19 customer list, or technical data, or

20 “(F) any similar item,

21 which has substantial value independent of the serv-
22 ices of any individual.”.

23 (B) Section 367(a)(3)(B)(iv) is amended by
24 striking “section 936(h)(3)(B)” and inserting “sub-
25 section (d)(4)”.

1 (C) Sections 482 and 1298(e)(2)(A) are each
2 amended by striking “section 936(h)(4)(B)” and in-
3 serting “section 367(d)(4)”.

4 **SEC. 8046. BASIS OF PROPERTY ACQUIRED FROM DECE-**
5 **DENT.**

6 Section 1014 is amended—

7 (1) by striking “either” and by striking “or sec-
8 tion 811(j) of the Internal Revenue Code of 1939
9 where the decedent died after October 21, 1942” in
10 subsection (a)(2), and

11 (2) by striking paragraphs (7) and (8) of sub-
12 section (b).

13 **SEC. 8047. PROPERTY ON WHICH LESSEE HAS MADE IM-**
14 **PROVEMENTS.**

15 Section 1019 is amended by striking the last sen-
16 tence.

17 **SEC. 8048. INVOLUNTARY CONVERSION.**

18 Section 1033 is amended by striking subsection (j)
19 and by redesignating subsection (k) as subsection (j).

20 **SEC. 8049. PROPERTY ACQUIRED DURING AFFILIATION.**

21 Section 1051 is hereby repealed, and the table of sec-
22 tions for part IV of subchapter O of chapter 1 is amended
23 by striking the item relating to section 1051.

1 **SEC. 8050. REPEAL OF SPECIAL HOLDING PERIOD RULES**
2 **FOR CERTAIN COMMODITY FUTURES TRANS-**
3 **ACTIONS.**

4 Section 1222 is amended by striking the last sen-
5 tence.

6 **SEC. 8051. HOLDING PERIOD OF PROPERTY.**

7 (a) Paragraph (1) of section 1223 is amended by
8 striking “, in the case of such exchanges after March 1,
9 1954.”.

10 (b) Paragraph (4) of section 1223 is amended by
11 striking “(or under so much of section 1052(c) as refers
12 to section 113(a)(23) of the Internal Revenue Code of
13 1939)”.

14 (c) Paragraph (6) of section 1223 is repealed.

15 (d) Paragraph (8) of section 1223 is repealed.

16 **SEC. 8052. PROPERTY USED IN THE TRADE OR BUSINESS**
17 **AND INVOLUNTARY CONVERSIONS.**

18 Subparagraph (A) of section 1231(c)(2) is amended
19 by striking “beginning after December 31, 1981”.

20 **SEC. 8053. SALE OF PATENTS.**

21 Subsection (a) of section 1249 is amended by striking
22 “after December 31, 1962,”.

23 **SEC. 8054. GAIN FROM DISPOSITION OF FARMLAND.**

24 (a) Paragraph (1) of section 1252(a), as amended by
25 the preceding provisions of this Act, is amended—

1 (1) by striking “beginning after December 31,
2 1969” in the matter preceding subparagraph (A),
3 and

4 (2) by amending subparagraph (A) to read as
5 follows:

6 “(A) the applicable percentage of the ag-
7 gregate deductions allowed under section 175
8 (as in effect before its repeal by the Tax Re-
9 form Act of 2014) with respect to the farmland,
10 or”.

11 (b) Paragraph (2) of section 1252(a) is amended by
12 striking “sections 175” and all that follows and inserting
13 “section 175 (as in effect before its repeal by the Tax Re-
14 form Act of 2014).”.

15 **SEC. 8055. TRANSITION RULES RELATED TO THE TREAT-**
16 **MENT OF AMOUNTS RECEIVED ON RETIRE-**
17 **MENT OR SALE OR EXCHANGE OF DEBT IN-**
18 **STRUMENTS.**

19 (a) Section 1271 is amended by striking subsection
20 (e).

21 (b) Section 1271(a)(2)(B) is amended by striking
22 “(and paragraph (2) of subsection (e))”.

1 **SEC. 8056. CERTAIN RULES WITH RESPECT TO DEBT IN-**
2 **STRUMENTS ISSUED BEFORE JULY 2, 1982.**

3 (a) Section 1272 is amended by striking subsection
4 (b).

5 (b) Section 163(j)(2)(C)(ii) is amended by striking
6 “or (b)(4)”.

7 (c) Section 1271(a)(2)(A)(ii) is amended by striking
8 “subsection (a)(7) or (b)(4) of section 1272” and inserting
9 “section 1272(a)(7)”.

10 (d) Section 1271(b)(1) is amended to read as follows:

11 “(1) IN GENERAL.—This section shall not apply
12 to any obligation issued by a natural person before
13 June 9, 1997.”.

14 (e) Section 1279(a)(4)(A)(ii), as amended by the pre-
15 ceding provisions of this Act, is amended by striking “or
16 (b)(4)”.

17 (f) The amendments made by this section shall apply
18 to debt instruments issued after July 1, 1982.

19 **SEC. 8057. CERTAIN RULES WITH RESPECT TO STRIPPED**
20 **BONDS PURCHASED BEFORE JULY 2, 1982.**

21 (a) Section 1286 is amended by striking subsection
22 (c).

23 (b) Section 1286(e)(5) is amended by striking the
24 last sentence.

25 (c) Subsections (a) and (b) of section 1286 are each
26 amended by striking “after July 1, 1982,”.

1 (d) The amendments made by this section shall apply
2 to bonds and coupons purchased after July 1, 1982.

3 **SEC. 8058. AMOUNT AND METHOD OF ADJUSTMENT.**

4 Section 1314 is amended by striking subsection (d)
5 and by redesignating subsection (e) as subsection (d).

6 **SEC. 8059. OLD-AGE, SURVIVORS, AND DISABILITY INSUR-**
7 **ANCE.**

8 Subsection (a) of section 1401 is amended by striking
9 “the following percent” and all that follows and inserting
10 “12.4 percent of the amount of the self-employment in-
11 come for such taxable year.”.

12 **SEC. 8060. HOSPITAL INSURANCE.**

13 Paragraph (1) of section 1401(b) is amended by
14 striking “the following percent” and all that follows and
15 inserting “2.9 percent of the amount of the self-employ-
16 ment income for such taxable year.”.

17 **SEC. 8061. MINISTERS, MEMBERS OF RELIGIOUS ORDERS,**
18 **AND CHRISTIAN SCIENCE PRACTITIONERS.**

19 Paragraph (3) of section 1402(e) is amended by
20 striking “whichever of the following dates is later: (A)”
21 and by striking “; or (B)” and all that follows and insert-
22 ing a period.

23 **SEC. 8062. AFFILIATED GROUP DEFINED.**

24 Subparagraph (A) of section 1504(a)(3) is amended
25 by striking “for a taxable year which includes any period

1 after December 31, 1984” in clause (i) and by striking
2 “in a taxable year beginning after December 31, 1984”
3 in clause (ii).

4 **SEC. 8063. CREDIT FOR STATE DEATH TAXES.**

5 (a) Part II of subchapter A of chapter 11 is amended
6 by striking section 2011 (and by striking the item relating
7 to such section in the table of sections for such subpart).

8 (b) Subchapter A of chapter 13 is amended by strik-
9 ing section 2604 (and by striking the item relating to such
10 section in the table of sections for such subpart).

11 **SEC. 8064. FAMILY-OWNED BUSINESS INTEREST.**

12 Part IV of subchapter A of chapter 11 is amended
13 by striking section 2057 (and by striking the item relating
14 to such section in the table of sections for such part).

15 **SEC. 8065. PROPERTY WITHIN THE UNITED STATES.**

16 Subsection (c) of section 2104 is amended by striking
17 “With respect to estates of decedents dying after Decem-
18 ber 31, 1969, deposits” and inserting “Deposits”.

19 **SEC. 8066. REPEAL OF DEADWOOD PROVISIONS RELATING**
20 **TO EMPLOYMENT TAXES.**

21 (a) TAX ON EMPLOYEES.—Subsection (a) of section
22 3101 is amended by striking “the following percentages”
23 and all that follows and inserting “6.2 percent of the
24 wages (as defined in section 3121(a)) received by him with
25 respect to employment (as defined in section 3121(b)).”.

1 (b) TAX ON EMPLOYERS.—

2 (1) Subsection (a) of section 3111 is amended
3 by striking “the following percentages” and all that
4 follows and inserting “6.2 percent of the wages (as
5 defined in section 3121(a)) paid by him with respect
6 to employment (as defined in section 3121(b)).”

7 (2) Subsection (b) of section 3111 is amended
8 by striking “the following percentages” and all that
9 follows and inserting “1.45 percent of the wages (as
10 defined in section 3121(a)) paid by him with respect
11 to employment (as defined in section 3121(b)).”

12 (3) Section 3111 is amended by striking sub-
13 section (d) and redesignating subsection (e) as sub-
14 section (d).

15 (c) TIER 2 TAX ON EMPLOYEES.—Subsection (b) of
16 section 3201 is amended to read as follows:

17 “(b) TIER 2 TAX.—In addition to other taxes, there
18 is hereby imposed on the income of each employee a tax
19 equal to the percentage determined under section 3241 for
20 any calendar year of the compensation received during
21 such calendar year by such employee for services rendered
22 by such employee.”.

23 (d) RATE OF TIER 2 TAX ON EMPLOYEE REP-
24 RESENTATIVES.—Subsection (b) of section 3211 is
25 amended to read as follows:

1 “(b) TIER 2 TAX.—In addition to other taxes, there
2 is hereby imposed on the income of each employee rep-
3 resentative a tax equal to the percentage determined under
4 section 3241 for any calendar year of the compensation
5 received during such calendar year by such employee rep-
6 resentative for services rendered by such employee rep-
7 resentative.”.

8 (e) TIER 2 TAX ON EMPLOYERS.—

9 (1) Subsection (b) of section 3221 is amended
10 to read as follows:

11 “(b) TIER 2 TAX.—In addition to other taxes, there
12 is hereby imposed on the income of each employer a tax
13 equal to the percentage determined under section 3241 for
14 any calendar year of the compensation paid during such
15 calendar year by such employer for services rendered for
16 such employer.”.

17 (2) Section 3221 is amended by striking sub-
18 section (d) and redesignating subsection (e) as sub-
19 section (d).

20 (f) EMPLOYEE UNDER RAILROAD RETIREMENT SYS-
21 TEM.—Subsection (b) of section 3231 is amended by is
22 amended by striking “; except” and all that follows and
23 inserting a period.

24 (g) DEFINITION OF WAGES.—

1 (1) Section 3121(b) is amended by striking
2 paragraph (17).

3 (2) Section 210(a) of the Social Security Act is
4 amended by striking paragraph (17).

5 (h) CREDITS AGAINST UNEMPLOYMENT TAX.—

6 (1) Paragraph (4) of section 3302(f) is amend-
7 ed—

8 (A) by striking “subsection—” and all that
9 follows through “ (A) in general—The” and in-
10 sserting “subsection, the”,

11 (B) by striking subparagraph (B),

12 (C) by redesignating clauses (i) and(ii) as
13 subparagraphs (A) and (B), respectively, and

14 (D) by moving the text of such subpara-
15 graphs (as so redesignated) 2 ems to the left.

16 (2) Paragraph (5) of section 3302(f) is amend-
17 ed by striking subparagraph (D) and by redesign-
18 ating subparagraph (E) as subparagraph (D).

19 (i) DOMESTIC SERVICE EMPLOYMENT TAXES.—Sec-
20 tion 3510(b) is amended by striking paragraph (4).

21 **SEC. 8067. LUXURY PASSENGER AUTOMOBILES.**

22 (a) IN GENERAL.—Chapter 31 is amended by strik-
23 ing subchapter A (and by striking the item relating to
24 such subchapter in the table of sections for such chapter).

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 4293 is amended by striking “sub-
2 chapter A of chapter 31,”.

3 (2) Section 4221 is amended—

4 (A) in subsections (a) and (d)(1), by strik-
5 ing “subchapter A or” and inserting “sub-
6 chapter”,

7 (B) in subsection (a), by striking “In the
8 case of taxes imposed by subchapter A of chap-
9 ter 31, paragraphs (1), (3), (4), and (5) shall
10 not apply.”, and

11 (C) in subsection (c), by striking “4001(c),
12 4001(d)”.

13 (3) Section 4222 is amended by striking
14 “4001(c), 4001(d)”.

15 **SEC. 8068. TRANSPORTATION BY AIR.**

16 Section 4261(e) is amended—

17 (1) in paragraph (1) by striking subparagraph
18 (C), and

19 (2) by striking paragraph (5).

20 **SEC. 8069. TAXES ON FAILURE TO DISTRIBUTE INCOME.**

21 (a) Paragraph (2) of section 4942(f) is amended by
22 striking the semicolon at the end of subparagraph (B) and
23 inserting “, and”, by striking “; and” at the end of sub-
24 paragraph (C) and inserting a period, and by striking sub-
25 paragraph (D).

1 (b) Subsection (g) of section 4942 (as amended by
2 this Act) is amended—

3 (1) by striking “For all taxable years beginning
4 on or after January 1, 1975, subject” in paragraph
5 (2)(A) and inserting “Subject”, and

6 (2) by striking paragraph (4).

7 (c) Section 4942(i)(2) is amended by striking “begin-
8 ning after December 31, 1969, and”.

9 **SEC. 8070. TAXES ON TAXABLE EXPENDITURES.**

10 Section 4945(f) is amended by striking “(excluding
11 therefrom any preceding taxable year which begins before
12 January 1, 1970)”.

13 **SEC. 8071. DEFINITIONS AND SPECIAL RULES.**

14 Section 4682 is amended by striking subsection (h).

15 **SEC. 8072. RETURNS.**

16 Subsection (a) of section 6039D is amended by strik-
17 ing “beginning after December 31, 1984,”.

18 **SEC. 8073. INFORMATION RETURNS.**

19 Subsection (c) of section 6060 is amended by striking
20 “year” and all that follows and inserting “year.”.

21 **SEC. 8074. ABATEMENTS.**

22 Section 6404(f) is amended by striking paragraph
23 (3).

1 **SEC. 8075. FAILURE BY CORPORATION TO PAY ESTIMATED**
2 **INCOME TAX.**

3 Clause (i) of section 6655(g)(4)(A) is amended by
4 striking “(or the corresponding provisions of prior law)”.

5 **SEC. 8076. REPEAL OF 2008 RECOVERY REBATES.**

6 (a) IN GENERAL.—Subchapter B of chapter 65 is
7 amended by striking section 6428 (and by striking the
8 item relating to such section in the table of sections for
9 such subchapter).

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 6211(b)(4)(A) is amended by strik-
12 ing “6428”.

13 (2) Section 6213(g)(2)(L) is amended by strik-
14 ing “32, or 6428” and inserting “or 32”.

15 (3) Paragraph (2) of section 1324(b) of title
16 31, United States Code, is amended by striking “or
17 6428”.

18 **SEC. 8077. REPEAL OF ADVANCE PAYMENT OF PORTION OF**
19 **INCREASED CHILD CREDIT FOR 2003.**

20 Subchapter B of chapter 65 is amended by striking
21 section 6429 (and by striking the item relating to such
22 section in the table of sections for such subchapter).

23 **SEC. 8078. REPEAL OF PROVISIONS RELATED TO COBRA**
24 **PREMIUM ASSISTANCE.**

25 (a) IN GENERAL.—Subchapter B of chapter 65 is
26 amended by striking section 6432 (and by striking the

1 item relating to such section in the table of sections for
2 such subchapter).

3 (b) NOTIFICATION REQUIREMENT.—Part I of sub-
4 chapter B of chapter 68 is amended by striking section
5 6720C (and by striking the item relating to such section
6 in the table of sections for such part).

7 (c) EXCLUSION FROM GROSS INCOME.—Part III of
8 subchapter B of chapter 1 is amended by striking section
9 139C (and by striking the item relating to such section
10 in the table of sections for such part).

11 **SEC. 8079. RETIREMENT.**

12 Section 7447(i)(3)(B)(ii) is amended by striking “at
13 4 percent per annum to December 31, 1947, and at 3 per-
14 cent per annum thereafter”, and inserting “at 3 percent
15 per annum”.

16 **SEC. 8080. ANNUITIES TO SURVIVING SPOUSES AND DE-
17 PENDENT CHILDREN OF JUDGES.**

18 (a) Paragraph (2) of section 7448(a) is amended by
19 striking “or under section 1106 of the Internal Revenue
20 Code of 1939” and by striking “or pursuant to section
21 1106(d) of the Internal Revenue Code of 1939”.

22 (b) Subsection (g) of section 7448 is amended by
23 striking “or other than pursuant to section 1106 of the
24 Internal Revenue Code of 1939”.

1 (c) Subsections (g), (j)(1), and (j)(2) of section 7448
2 are each amended by striking “at 4 percent per annum
3 to December 31, 1947, and at 3 percent per annum there-
4 after” and inserting “at 3 percent per annum”.

5 **SEC. 8081. MERCHANT MARINE CAPITAL CONSTRUCTION**
6 **FUNDS.**

7 Paragraph (4) of section 7518(g) is amended by
8 striking “any nonqualified withdrawal” and all that fol-
9 lows through “shall be determined” and inserting “any
10 nonqualified withdrawal shall be determined”.

11 **SEC. 8082. VALUATION TABLES.**

12 (a) Subsection (c) of section 7520 is amended by
13 striking paragraph (2) and by redesignating paragraph
14 (3) as paragraph (2).

15 (b) Paragraph (2) of section 7520(e) of such Code,
16 as so redesignated, is amended—

17 (1) by striking “Not later than December 31,
18 1989, the” and inserting “The”, and

19 (2) by striking “thereafter” in the last sentence
20 thereof.

21 **SEC. 8083. DEFINITION OF EMPLOYEE.**

22 Section 7701(a)(20) is amended by striking “chapter
23 21” and all that follows and inserting “chapter 21.”.

1 **SEC. 8084. EFFECTIVE DATE.**

2 (a) GENERAL RULE.—Except as otherwise provided
3 in subsection (b) of this section and the preceding sections
4 of this subtitle, the amendments made by this subtitle
5 shall take effect on the date of enactment of this Act.

6 (b) SAVINGS PROVISION.—If—

7 (1) any provision amended or repealed by the
8 amendments made by this subtitle applied to—

9 (A) any transaction occurring before the
10 date of the enactment of this Act,

11 (B) any property acquired before such date
12 of enactment, or

13 (C) any item of income, loss, deduction, or
14 credit taken into account before such date of
15 enactment, and

16 (2) the treatment of such transaction, property,
17 or item under such provision would (without regard
18 to the amendments or repeals made by this subtitle)
19 affect the liability for tax for periods ending after
20 such date of enactment,

21 nothing in the amendments or repeals made by this sub-
22 title shall be construed to affect the treatment of such
23 transaction, property, or item for purposes of determining
24 liability for tax for periods ending after such date of enact-
25 ment.

1 **Subtitle B—Conforming Amend-**
2 **ments Related to Multiple Sec-**
3 **tions**

4 **SEC. 8101. CONFORMING AMENDMENTS RELATED TO MUL-**
5 **TIPLE SECTIONS.**

6 (a) GENERAL BUSINESS CREDIT.—Section 38(b), as
7 amended by the preceding provisions of this Act, is amend-
8 ed—

9 (1) by redesignating paragraphs (4), (5), (7),
10 (8), (13), (20), and (33) as paragraphs (3), (4), (5),
11 (6), (7), (8), and (9), respectively,

12 (2) by adding “plus” at the end of paragraph
13 (8) (as so redesignated), and

14 (3) by striking the comma at the end of para-
15 graph (9) (as so redesignated) and inserting a pe-
16 riod.

17 (b) ADJUSTMENTS TO BASIS.—Section 1016(a), as
18 amended by the preceding provisions of this Act, is amend-
19 ed—

20 (1) by striking the last two sentences of para-
21 graph (2),

22 (2) in paragraph (4) by striking “(not includ-
23 ing” and all that follows through “1921”,

24 (3) by striking paragraph (12),

1 (4) by redesignating paragraphs (11), (14),
2 (16), (17), (18), (21), (23), (26), (38), and (39) as
3 paragraphs (9), (10), (11), (12), (13), (14), (15),
4 (16), (17), and (18), respectively, and

5 (5) by adding “and” at the end of paragraph
6 (17) (as so redesignated).

7 (c) HOLDING PERIOD OF PROPERTY.—Section 1223,
8 as amended by the preceding provisions of this Act, is
9 amended by redesignating paragraphs (9), (10), (11),
10 (12), and (15) as paragraphs (6), (7), (8), (9) and (10),
11 respectively.

12 (d) CORPORATE PREFERENCE ITEMS.—

13 (1) IN GENERAL.—Subchapter B of chapter 1,
14 as amended by this Act, is amended by striking part
15 XI (and by striking the item relating to such part
16 from the table of parts for such subchapter).

17 (2) PRESERVATION OF SPECIAL RULE FOR
18 TREATMENT OF INTANGIBLE DRILLING COSTS.—
19 Section 263(e) is amended—

20 (A) by striking all that precedes “and ex-
21 cept as provided in subsection (i)” and inserting
22 the following:

23 “(e) INTANGIBLE DRILLING AND DEVELOPMENT
24 COSTS IN THE CASE OF OIL AND GAS WELLS AND GEO-
25 THERMAL WELLS.—

1 “(1) IN GENERAL.—Notwithstanding subsection
2 (a),” and

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

5 “(2) REDUCTION FOR INTEGRATED OIL COMPA-
6 NIES.—

7 “(A) IN GENERAL.—In the case of a cor-
8 poration which is an integrated oil company,
9 the amount allowable as a deduction for any
10 taxable year (determined without regard to this
11 paragraph) under paragraph (1) shall be re-
12 duced by 30 percent.

13 “(B) AMORTIZATION OF DISALLOWED
14 AMOUNTS.—The amount not allowable as a de-
15 duction under paragraph (1) for any taxable
16 year by reason of subparagraph (A) shall be al-
17 lowable as a deduction ratably over the 60-
18 month period beginning with the month in
19 which the costs are paid or incurred.

20 “(C) DISPOSITIONS.—For purposes of sec-
21 tion 1254, any deduction under subparagraph
22 (B) shall be treated as a deduction allowable
23 under paragraph (1).

24 “(D) INTEGRATED OIL COMPANY.—For
25 purposes of this paragraph, the term ‘inte-

1 grated oil company’ means, with respect to any
2 taxable year, any producer of crude oil to whom
3 subsection (c) of section 613A does not apply
4 by reason of paragraph (2) or (4) of section
5 613A(d) (as such provisions were in effect be-
6 fore their repeal by the Tax Reform Act of
7 2014).

8 “(E) COORDINATION WITH COST DEPLE-
9 TION.—The portion of the adjusted basis of any
10 property which is attributable to amounts to
11 which subparagraph (A) applied shall not be
12 taken into account for purposes of determining
13 depletion under section 611.”.

14 (3) PRESERVATION OF LIMITATION ON CERTAIN
15 INTEREST ON INDEBTEDNESS OF FINANCIAL INSTI-
16 TUTIONS.—

17 (A) IN GENERAL.—Section 163 is amended
18 by redesignating subsection (n) as subsection
19 (o) and by inserting after subsection (m) the
20 following new subsection:

21 “(n) LIMITATION ON CERTAIN INTEREST ON IN-
22 DEBTEDNESS OF FINANCIAL INSTITUTIONS.—

23 “(1) IN GENERAL.—For purposes of this sub-
24 title, in the case of a corporation, the amount allow-
25 able as a deduction under this chapter (determined

1 without regard to this subsection) with respect to
2 the amount described in paragraph (2) shall be re-
3 duced by 20 percent.

4 “(2) INTEREST ON DEBT TO CARRY TAX-EX-
5 EMPT OBLIGATIONS ACQUIRED AFTER DECEMBER 31,
6 1982, AND BEFORE AUGUST 8, 1986.—

7 “(A) IN GENERAL.—In the case of a finan-
8 cial institution which is a bank (as defined in
9 section 585(a)(2)), the amount described in this
10 paragraph is the amount of interest on indebt-
11 edness incurred or continued to purchase or
12 carry obligations acquired after December 31,
13 1982, and before August 8, 1986, the interest
14 on which is exempt from taxes for the taxable
15 year, to the extent that a deduction would (but
16 for this paragraph or section 265(b)) be allow-
17 able with respect to such interest for such tax-
18 able year.

19 “(B) DETERMINATION OF INTEREST ALLO-
20 CABLE TO INDEBTEDNESS ON TAX-EXEMPT OB-
21 LIGATIONS.—Unless the taxpayer (under regu-
22 lations prescribed by the Secretary) establishes
23 otherwise, the amount determined under sub-
24 paragraph (A) shall be an amount which bears
25 the same ratio to the aggregate amount allow-

1 able (determined without regard to this section
2 and section 265(b)) to the taxpayer as a deduc-
3 tion for interest for the taxable year as—

4 “(i) the taxpayer’s average adjusted
5 basis (within the meaning of section 1016)
6 of obligations described in subparagraph
7 (A), bears to

8 “(ii) such average adjusted basis for
9 all assets of the taxpayer.

10 “(C) INTEREST.—For purposes of this
11 paragraph, the term ‘interest’ includes amounts
12 (whether or not designated as interest) paid in
13 respect of deposits, investment certificates, or
14 withdrawable or repurchasable shares.

15 “(D) APPLICATION OF SUBPARAGRAPH TO
16 CERTAIN OBLIGATIONS ISSUED AFTER AUGUST
17 7, 1986.—For application of this subparagraph
18 to certain obligations issued after August 7,
19 1986, see section 265(b)(3) (as in effect before
20 the enactment of the Tax Reform Act of 2014).
21 That portion of any obligation not taken into
22 account under paragraph (2)(A) of section
23 265(b) (as so in effect) by reason of paragraph
24 (7) of such section shall be treated for purposes

1 of this section as having been acquired on Au-
2 gust 7, 1986.”.

3 (B) CONFORMING AMENDMENTS.—

4 (i) Section 1277(e) is amended by
5 striking “section 291(e)(1)(B)(ii)” and in-
6 serting “section 163(n)(2)(B)”.

7 (ii) Section 1363(b)(3), as amended
8 by the preceding provisions of this Act, is
9 amended by striking “section 291” and in-
10 serting “section 163(n)”.

11 (4) EFFECTIVE DATE.—Except as otherwise
12 provided in this Act with respect to amendments
13 made to section 291 of the Internal Revenue Code
14 of 1986, the amendments made this subsection shall
15 apply to taxable years beginning after December 31,
16 2014.

**TAX REFORM ACT OF 2014
DISCUSSION DRAFT**

AS RELEASED ON FEBRUARY 26, 2014

Section-by-Section Summary



**Tax Reform Act of 2014
Discussion Draft
Section-by-Section Summary**

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Tax Reform Act of 2014
Discussion Draft
Section-by-Section Summary

Section 1. Short Title; Etc.

This section provides: (1) a short title for the discussion draft, the “Tax Reform Act of 2014”; (2) that when the discussion draft amends or repeals a particular section or other provision, such amendment or repeal generally should be considered as referring to sections or provisions of the Internal Revenue Code of 1986; and (3) a table of contents.

Title I – Tax Reform for Individuals

Subtitle A – Individual Income Tax Rate Reform

Secs. 1001-1003. Simplification of individual income tax rates; Deduction for adjusted net capital gain; Conforming amendments related to simplification of individual income tax rates.

Current law: Under current law, a taxpayer generally determines his regular tax liability by applying the tax rate schedules (or the tax tables) to his regular taxable income. The rate schedules are broken into several ranges of income, known as income brackets, and the marginal tax rate increases as a taxpayer’s income increases. Separate rate schedules apply based on an individual’s filing status. For 2014, there are seven regular individual income tax brackets of 10 percent, 15 percent, 25 percent, 28 percent, 33 percent, 35 percent, and 39.6 percent. In addition, there are five categories of filing status: single, head of household, married filing jointly (and surviving spouses), married filing separately, and estates and trusts. For married individuals filing jointly, the upper bounds of the 10- and 15-percent brackets are exactly double the upper bounds that apply to single individuals, to prevent a marriage penalty from applying at these income levels. The income levels for each bracket threshold are indexed annually based on increases in the Consumer Price Index (CPI).

A separate rate schedule applies to adjusted net capital gain and qualified dividends, with rates of 0 percent, 15 percent, and 20 percent. Additional rates of 25 percent and 28 percent apply to unrecaptured section 1250 gain and 28-percent rate gain (collectibles gain and section 1202 gain), respectively. Special rules (i.e., the so-called “kiddie tax”) apply to certain unearned income of children, taxing a portion of such income at the parents’ tax bracket.

Provision: Under the provision, the current seven tax brackets would be consolidated and simplified into three brackets: 10 percent, 25 percent, and 35 percent. Generally, the new 10-percent bracket would replace the current 10- and 15-percent brackets; the new 25-percent bracket would replace the current 25-, 28-, 33-, and 35-percent brackets; and the new 35-percent bracket would replace the current 39.6-percent bracket. While the current 25-percent bracket

begins at \$72,500 (2013 dollars) for joint filers (half that amount for single filers), the new 25-percent bracket would begin at \$71,200 (2013 dollars) for joint filers (half that amount for single filers). The new 35-percent bracket would begin at the same income levels as the current 39.6-percent bracket (e.g., \$400,000 for single filers and \$450,000 for joint filers in 2013). Beginning in tax year 2015, these income levels would be indexed for chained CPI instead of CPI, a slightly different measure of inflation.

The 35-percent bracket would not apply to qualified domestic manufacturing income (QDMI), meaning that such income would be subject to a maximum statutory rate of 25 percent. QDMI generally would be net income attributable to domestic manufacturing gross receipts. Domestic manufacturing gross receipts would include gross receipts derived from (1) any lease, rental, license, sale, exchange, or other disposition of tangible personal property that is manufactured, produced, grown, or extracted by the taxpayer in whole or in significant part within the United States, or (2) construction of real property in the United States as part of the active conduct of a construction trade or business. Income that either is net earnings from self-employment or results from an adjustment under Code section 481 (for changes in accounting methods) would not qualify as QDMI. Puerto Rico would be considered “domestic” for these purposes, and other rules similar to those under current-law Code section 199 would apply. Finally, the exemption of QDMI from the 35-percent bracket would be phased in over three years, with only one-third of QDMI being excluded from the top bracket in tax year 2015, and two-thirds being excluded in 2016.

In addition, certain tax preferences could only be taken against the 25-percent bracket, but not the 35-percent bracket. These tax preferences would include: the standard deduction; all itemized deductions except the deduction for charitable contributions; the foreign earned income exclusion (including the exclusions for income from Puerto Rico and U.S. possessions); tax-exempt interest; employer contributions to health, accident, and defined contribution retirement plans to the extent excluded from gross income; the deduction for health premiums of the self-employed; the deduction for contributions to Health Savings Accounts; and the portion of Social Security benefits excluded from gross income.

The 25-percent cap that would apply to both the maximum rate imposed on QDMI and the rate against which certain tax preferences may be taken would be administered by imposing the difference between the 25-percent bracket and the 35-percent bracket (i.e., 10 percentage points) on modified adjusted gross income (MAGI) rather than taxable income. MAGI would equal adjusted gross income, plus the above-the-line deductions and exclusions listed above, minus QDMI and charitable contributions.

For high-income taxpayers, the provision would phase out the tax benefit of the 10-percent bracket, measured as the difference between what the taxpayer pays and what the taxpayer would have paid had the first dollar of taxable income been subject to the 25-percent bracket. This tax benefit is phased out at a rate of \$5 of tax savings for every \$100 of modified adjusted gross income in excess of \$250,000 (single filers) or \$300,000 (joint filers). These thresholds are adjusted for chained CPI in tax years after 2013.

The special rate structure for net capital gain would be repealed. Instead, non-corporate taxpayers could claim an above-the-line deduction equal to 40 percent of adjusted net capital gain. Adjusted net capital gain would equal the sum of net capital gain and qualified dividends, reduced by net collectibles gain.

The provision would be effective for tax years beginning after 2014.

Considerations:

- Overall, the changes to the individual rate structure would create a simpler, fairer, and flatter Federal income tax.
- Most economists consider chained CPI to represent a more accurate measure of inflation than CPI.
- Qualifying for head of household filing status requires a taxpayer to comply with a complicated set of rules, and comparable relief for single individuals with dependents could be provided through simpler changes to certain deductions and credits.
- The modified tax preference for long-term capital gains and dividends would result in such income being taxed at 60 percent of the taxpayer's marginal rate. Thus, for example, taxpayers in the 35-percent bracket would pay an effective rate of 21 percent on adjusted net capital gain. Combining this with the additional 3.8 percent tax imposed on such income by Code section 1411 yields a top effective rate of 24.8 percent, slightly lower than the top effective rate under current law, which is 25 percent.
- The 40-percent deduction for adjusted net capital gain would greatly simplify the calculation of the tax preference for such income relative to current law, and is similar to how the tax preference was structured prior to enactment of the Tax Reform Act of 1986.
- Excluding qualified domestic manufacturing income from the 35-percent bracket would ensure that small businesses and pass-through entities (such as S corporations and partnerships) engaged in such activity are taxed at a rate no higher than 25 percent, achieving parity with C corporations under the discussion draft.

JCT estimate: According to JCT, the provisions, along with sections 3132 and 3139 of the discussion draft, would reduce revenues by \$498.7 billion over 2014-2023, and increase outlays by \$0.4 billion over 2014-2023.

Subtitle B – Simplification of Tax Benefits for Families

Considerations for Subtitle B:

- The Code currently includes six basic family tax benefits, each with its own rules, eligibility criteria, and calculations.
- Three – the basic standard deduction, additional standard deduction, and personal exemption for taxpayer and spouse – are intended to shield a minimum level of income from Federal income taxation, with the level depending on whether the taxpayer is single or married.
- The other three – personal exemptions for children and dependents, the child tax credit, and head of household filing status – are intended to deliver additional tax benefits to households with children and dependents.

- Consolidating these six benefits into three simpler benefits – a larger standard deduction, an additional deduction for single parents, and an enhanced child and dependent tax credit – would achieve the same policy and distributional goals as current law while making the Code much simpler for low- and middle-income families.

Sec. 1101. Standard deduction.

Current law: Under current law, an individual reduces adjusted gross income (AGI) by any personal exemption deductions and either (1) the applicable standard deduction or (2) his itemized deductions to determine taxable income. The basic standard deduction varies depending upon a taxpayer's filing status. For 2013, the amount of the standard deduction was \$6,100 for single individuals and married individuals filing separate returns, \$8,950 for heads of households, and \$12,200 for married individuals filing a joint return (and surviving spouses). An additional standard deduction is allowed with respect to any individual who is elderly or blind. The amounts of the basic and additional standard deductions are indexed annually for inflation (CPI). In lieu of taking the applicable standard deductions, an individual may elect to itemize deductions.

Provision: Under the provision, the basic and additional standard deductions would be consolidated into a single standard deduction of \$22,000 for joint filers (and surviving spouses) and \$11,000 for other individual filers. Single filers with at least one qualifying child could claim an additional deduction of \$5,500, regardless of whether or not they itemize deductions. These amounts would be adjusted annually from tax year 2013 based on changes in the chained CPI.

The standard deduction – or in the case of itemizers, an equivalent amount of itemized deductions – would phase out by \$20 for every \$100 by which modified adjusted gross income (MAGI) exceeds \$517,500 for joint filers and \$358,750 for single filers. The additional deduction for single filers with a qualifying child would phase out by one dollar for every dollar by which AGI exceeds \$30,000. The phase-out threshold amounts also are adjusted for inflation based on 2013 dollars.

The provision would be effective for tax years beginning after 2014.

Considerations:

- The increase in the standard deduction would achieve substantial simplification by reducing the number of taxpayers who choose to itemize their deductions – from roughly one-third under current law to only 5 percent under the discussion draft (in 2015).
- While the provision eliminates the additional standard deduction for the elderly and blind, the increase in the standard deduction more than compensates these taxpayers for this simplification.

JCT estimate: According to JCT, the provision would reduce revenues by \$578.3 billion over 2014-2023, and increase outlays by \$87.9 billion over 2014-2023.

Sec. 1102. Increase and expansion of child tax credit.

Current law: Under current law, an individual may claim a tax credit for each qualifying child under the age of 17. The amount of the credit per child is \$1,000. The aggregate amount of child credits that may be claimed is phased out by \$50 for each \$1,000 of MAGI over \$75,000 for single filers and \$110,000 for joint filers. Neither the \$1,000 credit amount nor the MAGI thresholds are indexed for inflation. The taxpayer must submit a valid taxpayer identification number (TIN) for each child for whom the credit is claimed.

To the extent the child credit exceeds the taxpayer's tax liability, the taxpayer is eligible for a refundable credit (the additional child tax credit, or ACTC) equal to 15 percent of earned income in excess of \$3,000 for tax years beginning before 2018, or \$10,000 thereafter, indexed for changes in the CPI since calendar year 2000. The taxpayer is not required to have a Social Security number (SSN) to claim the refundable portion of the credit, and (unlike with the EITC) taxpayers claiming the foreign earned income exclusion may qualify for the refundable portion of the credit.

Provision: Under the provision, the child credit would be increased to \$1,500 and would be allowed for qualifying children under the age of 18. A reduced credit of \$500 would be allowed for non-child dependents. Both the \$1,500 and \$500 credit amounts would be indexed annually for changes in the chained CPI. The credit would be refundable to the extent of 25 percent of the taxpayer's earned income (earned income in excess of \$3,000 before 2018). The credit would not begin to phase out until MAGI exceeds \$413,750 for single filers and \$627,500 for joint filers (indexed for inflation, using 2013 dollars).

To reduce waste, fraud, and abuse, a taxpayer would be required to provide his SSN, but not an SSN for the child or dependent, to claim the refundable portion of the credit. The IRS would be granted math error authority to adjust the returns of taxpayers failing to satisfy the identification requirements. The refundable portion of the credit would be disallowed for taxpayers claiming the foreign earned income exclusion.

The provision would be effective for tax years beginning after 2014.

Considerations:

- The cost of raising children increases every year, but the current law child tax credit fails to recognize this because it is not indexed for inflation.
- Consolidating the personal exemption for children and dependents and the child tax credit into a single tax credit achieves simplification while better targeting relief to low- and middle-income families.
- Increasing the phase-out level dramatically would reward more families with children and would simplify the Code for middle class families currently forced to perform a phase-out computation.

JCT estimate: According to JCT, the provision would reduce revenues by \$277.9 billion over 2014-2023, and increase outlays by \$276.1 billion over 2014-2023.

Sec. 1103. Modification of earned income tax credit.

Current law: Under current law, a refundable earned income tax credit (EITC) is available to low-income workers who satisfy certain requirements. The amount of the EITC varies depending upon the taxpayer's earned income and whether the taxpayer has zero, one, two, or more than two qualifying children. In 2013, the maximum EITC (regardless of filing status) was \$6,044 for taxpayers with more than two qualifying children, \$5,372 for taxpayers with two qualifying children, \$3,250 for taxpayers with one qualifying child, and \$487 for taxpayers with no qualifying children. For tax year 2013, the credit amount begins to phase out at an income level of \$17,530 (\$7,970 for taxpayers with no qualifying children). The phase-out percentages are 15.98 percent for taxpayers with one qualifying child, 17.68 percent for two or more qualifying children, and 7.65 percent for no qualifying children.

Provision: Under the provision, the EITC would be modified so that it would refund employment-related taxes (i.e., payroll taxes and self-employment taxes) paid by or with respect to the individual. The employee's share of payroll taxes would be offset by a credit against such taxes, while the employer's share would be rebated through a refundable income tax credit. Only taxpayers with at least one qualifying child could qualify for the credit against the employer's share of payroll taxes. For taxpayers without a qualifying child, the maximum credit amount would be \$200 for joint filers (\$100 for other filers). For taxpayers with one qualifying child, the maximum credit would be \$2,400. For taxpayers with more than one qualifying child, the maximum credit would be \$4,000 in the case of a joint return and \$3,000 in other cases. These credit amounts would be indexed for chained CPI based on 2013 dollars.

A special rule would apply to tax years 2015, 2016, and 2017 that would make the credit equal to 200 percent of the taxpayer's payroll taxes (both employee and employer shares). In addition, taxpayers with one qualifying child could claim a maximum credit of \$3,000 (rather than \$2,400), and taxpayers with two or more qualifying children could claim a maximum credit of \$4,000, regardless of filing status.

The credit would phase out as AGI exceeds certain levels. For taxpayers with qualifying children, the credit would begin phasing out at \$20,000 for single filers and \$27,000 for joint filers. For taxpayers without qualifying children, the credit would begin phasing out at \$8,000 for single filers and \$13,000 for joint filers. These thresholds would be indexed to chained CPI, based on 2013 dollars. The phase-out percentages would be 19 percent for filers with one or more qualifying children and 7.65 percent for no qualifying children.

Finally, the provision would require the Treasury Department to report to Congress, within 180 days of the date of enactment, recommendations for providing advance payments of the EITC (1) as promptly as feasible, and (2) with minimal administrative burden imposed on employers and the IRS.

The provision would be effective for tax years beginning after 2014.

Considerations:

- Exempting a portion of wages from payroll tax would represent a tax cut, whereas the current EITC constitutes government spending.
- The Treasury Inspector General for Tax Administration (TIGTA) recently estimated that up to 25 percent of EITC payments are improper (including fraudulent claims), costing the Federal government up to \$132 billion over the last 10 years.
- The EITC calculation is highly complex, and TIGTA has estimated that as many as 22 percent of eligible taxpayers fail to claim it.
- Simply allowing low-income taxpayers a rebate of their payroll taxes is both much simpler and more transparent than current law, with the potential for fraud reduced by the direct link to payroll taxes withheld on a taxpayer's Form W-2.
- Allowing a larger maximum credit for joint filers than for other filers helps to reduce the marriage penalty embedded in the current EITC.

JCT estimate: According to JCT, the provision would reduce revenues by \$160.8 billion over 2014-2023, and reduce outlays by \$378.0 billion over 2014-2023.

Sec. 1104. Repeal of deduction for personal exemptions.

Current law: Under current law, a taxpayer generally may claim personal exemptions for the taxpayer, the taxpayer's spouse, and any dependents. For 2013, taxpayers may deduct \$3,900 for each personal exemption. This amount is indexed annually for inflation (CPI). Additionally, the personal exemption phase-out (PEP) reduces a taxpayer's personal exemptions by 2 percent for each \$2,500 (\$1,250 for married filing separately) by which the taxpayer's AGI exceeds \$250,000 (single), \$275,000 (head-of-household), \$300,000 (married filing jointly), and \$150,000 (married filing separately). These threshold amounts apply to tax year 2013 and also are indexed for inflation.

Provision: Under the provision, the deduction for personal exemptions would be repealed. The provision would be effective for tax years beginning after 2014.

Considerations:

- The personal exemption for the taxpayer and taxpayer's spouse would be consolidated into a larger standard deduction.
- The personal exemption for children and dependents would be consolidated into an expanded child and dependent tax credit.

JCT estimate: According to JCT, the provision would increase revenues by \$859.1 billion over 2014-2023, and reduce outlays by \$128.1 billion over 2014-2023.

Subtitle C – Simplification of Education Incentives

Considerations for Subtitle C:

- Under current law, there are 15 different tax benefits relating to education that often overlap with one another.
- The current-law education tax benefits are so complicated that they are ineffective because many taxpayers cannot determine the tax benefits for which they are eligible.
- The IRS publication on tax benefits for education is almost 90 pages long.
- Streamlining education tax benefits would enable taxpayers to understand better the tax benefits for which they qualify.
- The provisions would help to simplify considerably the tax benefits relating to education.

Sec. 1201. American opportunity tax credit.

Current law: Under current law, the American Opportunity Tax Credit (AOTC) replaces the pre-existing Hope Scholarship Credit (HSC) through the end of 2017. The AOTC provides a 100-percent tax credit for the first \$2,000 of certain higher education expenses and a 25-percent tax credit for the next \$2,000 of such expenses, for a maximum credit of \$2,500. The expenses that are eligible for the AOTC include tuition, fees and course materials. Up to 40 percent of the AOTC is refundable. The AOTC is available for up to four years of post-secondary education in a degree or certificate program, and generally phases out between modified adjusted gross income (MAGI) of \$160,000 and \$180,000 for joint filers and \$80,000 and \$90,000 for other filers.

After 2017, the AOTC expires and taxpayers may claim the HSC instead. Generally, the HSC is less generous than the AOTC in that it: (1) provides a credit of 100 percent of the first \$1,000 in expenses and 50 percent of the next \$1,000 in expenses; (2) applies only to tuition and fees; (3) is available only for two years of post-secondary education; (4) phases out at MAGI of \$80,000 to \$100,000 (joint filers) and \$40,000 to \$50,000 (other filers); and (5) is not refundable. (Under the HSC, all dollar amounts are indexed for inflation using 2000 as the base year.) As an alternative to the AOTC or the HSC, taxpayers may instead elect the Lifetime Learning Credit (LLC) for 20 percent of up to \$10,000 of qualified education expenses for post-secondary education. There is no limit on the number of years the LLC may be claimed for each student. For 2014, the LLC generally phases out for taxpayers with MAGI between \$54,000 and \$64,000 (\$108,000 and \$128,000 for joint filers). These income phase-outs are adjusted for inflation.

Prior to 2014, an individual also could claim an above-the-line deduction for qualified tuition and related expenses incurred. The maximum amount of the deduction was \$4,000 for taxpayers whose adjusted gross income (AGI) did not exceed \$65,000 (\$130,000 in the case of a joint return), and \$2,000 for taxpayers whose AGI did not exceed \$80,000 (\$160,000 in the case of a joint return).

Pell Grants generally may be used for a wider array of expenses than the AOTC or the HSC. However, Pell Grants must be first used against the expenses that are also covered by the AOTC or the HSC. These ordering rules have led to taxpayer confusion.

Certain educational institutions are also subject to Federal tax reporting requirements regarding tuition and related expenses that may be satisfied by providing either the amounts billed or the amounts paid.

Provision: Under the provision, the four existing higher education tax benefits described above – AOTC, HSC, LLC, and the tuition deduction – would be consolidated into a permanent, reformed AOTC. The new AOTC, like the current, temporary AOTC, would provide a 100-percent tax credit for the first \$2,000 of certain higher education expenses and a 25-percent tax credit for the next \$2,000 of such expenses. Also like the current AOTC, it would be available for up to four years of higher education, and eligible expenses would include tuition, fees and course materials. The provision would provide greater refundability, with the first \$1,500 of the credit being refundable. The credit would generally phase out for MAGI between \$86,000 and \$126,000 for joint filers and \$43,000 and \$63,000 for other filers. The credit amounts and phase-out ranges would be indexed for inflation starting in 2018. The HSC, LLC, and tuition deduction would be repealed.

The provision would deem Pell Grants to be applied first against expenses not covered by the AOTC. Thus, qualified tuition and related expenses that may be used for calculating the AOTC would be reduced by Pell Grants only to the extent the Pell Grants exceed the non-AOTC covered costs of college attendance.

To reduce credit overpayments, educational institutions subject to current reporting requirements would be required to report amounts paid rather than amounts billed.

The provision would be effective for tax years beginning after 2014.

Consideration: The provision would help to simplify the tax benefits relating to education by consolidating four similar, but not identical, tax benefits – AOTC, HSC, and LLC, and the deduction for qualified tuition and related expenses – into a single, easy-to-understand tax credit.

JCT estimate: According to JCT, the provision, along with section 1202 of the discussion draft, would increase revenues by \$29.4 billion over 2014-2023 and would increase outlays by \$38.1 billion over 2014-2023.

Sec. 1202. Expansion of Pell Grant exclusion from gross income.

Current law: Under current law, qualified scholarship amounts, such as Pell Grants, received by a degree candidate at a qualifying educational organization are generally excluded from gross income. However, such scholarship amounts are only excluded if used for qualified tuition and related expenses, a category that does not include room and board.

Provision: Under the provision, all Pell Grants would be excluded from income regardless of how they are used. The provision would be effective for tax years beginning after 2014.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 1201 of the discussion draft.

Sec. 1203. Repeal of exclusion of income from United States savings bonds used to pay higher education tuition and fees.

Current law: Under current law, interest on United States savings bonds is excluded from income if used to pay qualified higher education expenses. Only taxpayers with MAGI below certain (inflation-adjusted) levels qualify for the exclusion. For 2014, the exclusion phases out between \$113,950 and \$143,950 for joint returns and between \$76,700 and \$91,000 for other returns.

Provision: The provision would repeal the exclusion for interest on United States savings bonds used to pay qualified higher education expenses. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 1204. Repeal of deduction for interest on education loans.

Current law: Under current law, an individual may claim an above-the-line deduction for interest payments on qualified education loans for qualified higher education expenses of the taxpayer, the taxpayer's spouse, or dependents. The maximum amount of the deduction is \$2,500. Only taxpayers with MAGI below certain inflation-adjusted amounts qualify for the exclusion. For 2014, the exclusion phases out between \$130,000 and \$160,000 for joint returns and between \$65,000 and \$80,000 for other returns.

Provision: The provision would repeal the deduction for interest on education loans. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$13.0 billion over 2014-2023.

Sec. 1205. Repeal of deduction for qualified tuition and related expenses.

Current law: Under current law, an individual could claim an above-the-line deduction for qualified tuition and related expenses incurred in tax years beginning before 2014. The maximum amount of the deduction was \$4,000 for taxpayers whose adjusted gross income (AGI) did not exceed \$65,000 (\$130,000 in the case of a joint return), and \$2,000 for taxpayers whose AGI did not exceed \$80,000 (\$160,000 in the case of a joint return).

Provision: The provision would repeal the deduction for qualified tuition and related expenses. The provision would be effective for tax years beginning after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 1206. No new contributions to Coverdell education savings accounts.

Current law: Under current law, Coverdell education savings accounts, which are established for the purpose of paying qualified education expenses of a named beneficiary, are exempt from tax. Contributions are not deductible and may not exceed \$2,000 per beneficiary annually, and may not be made after the designated beneficiary reaches age 18 (except in the case of a special needs beneficiary). The contribution limit is phased out for contributors with modified adjusted gross income between \$95,000 and \$110,000 (\$190,000 and \$220,000 for married taxpayers filing a joint return). Distributions from a Coverdell account are excludable from the gross income of the beneficiary if used to pay for qualified education expenses. Qualified education expenses include qualified higher education expenses and qualified elementary and secondary school expenses for attendance in kindergarten through grade 12.

Provision: The provision would prohibit new contributions to Coverdell education savings accounts after 2014 (except rollover contributions), but would allow tax-free rollovers from Coverdell accounts into section 529 plans. The provision would be effective for contributions made and distributions after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.2 billion over 2014-2023.

Sec. 1207. Repeal of exclusion for discharge of student loan indebtedness.

Current law: Under current law, discharge of indebtedness generally constitutes taxable income. However, an exception applies to student loans that are forgiven because the former students work for a period of time in certain professions or for certain classes of employers. The exception also applies to loan repayments as part of the National Health Services Corps Loan Repayment Program and loan repayments or forgiveness under certain State loan repayment programs intended to provide for increased health care services in certain areas.

Provision: Under the provision, the exclusion for discharge of student loan indebtedness would be repealed. The provision would be effective for amounts discharged after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.1 billion over 2014-2023.

Sec. 1208. Repeal of exclusion for qualified tuition reductions.

Current law: Under current law, qualified tuition reductions provided by educational institutions to their employees, spouses, or dependents are excluded from income. The exclusion may be provided in the form of either reduced tuition or cash. The reduction must be part of a program that does not discriminate in favor of highly compensated employees and may not apply to graduate programs (except for a graduate student who is teaching or a research assistant).

Provision: Under the provision, the exclusion for qualified tuition reduction programs would be repealed. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$2.5 billion over 2014-2023.

Sec. 1209. Repeal of exclusion for education assistance programs.

Current law: Under current law, employer-provided education assistance is excluded from income. The exclusion is limited to \$5,250 per year and applies to both graduate and undergraduate courses. The education assistance must be part of a written plan of the employer that does not discriminate in favor of highly compensated employees.

Provision: Under the provision, the exclusion for education assistance programs would be repealed. Employer-provided education assistance may still be excluded as a working condition fringe benefit, however, if it is related to the employee's performance of his job duties for the employer. The provision would be effective for amounts paid or incurred after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$10.5 billion over 2014-2023.

Sec. 1210. Repeal of exception to 10-percent penalty for higher education expenses.

Current law: Under current law, an additional 10-percent tax generally is imposed on distributions from retirement plans and Individual Retirement Accounts (IRAs) occurring before the account holder reaches age 59½. This 10-percent tax is in addition to any income tax that may be due on the distribution. There are several exceptions to the early withdrawal penalty, including early distributions to pay for higher education expenses.

Provision: Under the provision, the exception to the additional 10-percent tax for early distributions used to pay for higher education expenses would be repealed. The provision would be effective for distributions after 2014.

Consideration: This provision would help Americans achieve greater retirement security by encouraging taxpayers not to make withdrawals from their accounts before retirement.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 1605 of the discussion draft.

Subtitle D – Repeal of Certain Credits for Individuals

Sec. 1301. Repeal of dependent care credit.

Current law: Under current law, a taxpayer may claim a non-refundable credit for a portion of the taxpayer's employment-related expenses for household services and the care of qualifying individuals. The credit takes into account up to \$3,000 of such expenses for households with one qualifying individual, and \$6,000 for two qualifying individuals. Taxpayers whose adjusted gross income is \$15,000 or less may claim a credit of 35 percent of expenses. The credit rate phases down to 20 percent as adjusted gross income increases from \$15,000 to \$43,000 (meaning that taxpayers with incomes exceeding \$43,000 may claim a maximum credit of \$600).

Provision: Under the provision, the dependent care credit would be repealed. The provision would be effective for tax years beginning after 2014.

Considerations:

- The dependent care credit is complex and overlaps with other tax provisions that provide tax benefits for families.
- Consolidating redundant and complex family tax benefits, such as the dependent care credit, into an increased child credit and standard deduction would result in significant simplification.

JCT estimate: According to JCT, the provision would increase revenues by \$20.0 billion over 2014-2023, and would reduce outlays by \$6.0 billion over 2014-2023.

Sec. 1302. Repeal of credit for adoption expenses.

Current law: Under current law, a taxpayer may claim an adoption tax credit of \$13,190 per eligible child for 2014 (both special needs and non-special needs adoptions). These benefits are phased-out for taxpayers with modified adjusted gross income (MAGI) between \$197,880 and \$237,880 for 2014. The amount of the credit and the income phase-outs are indexed for inflation. For a non-special needs adoption, the credit amount is limited to actual adoption expenses. The credit is not refundable, but unused amounts may be carried forward for five years.

Provision: Under the provision, the adoption credit would be repealed. The provision would be effective for amounts paid or incurred after 2014 for non-special needs adoptions. For special needs adoptions, amounts deemed to have been paid for purposes of the credit shall be treated as paid on the date the adoption was finalized.

Considerations:

- The adoption credit can be complex and overlaps with other tax provisions that provide tax benefits for families.
- Consolidating redundant and complex family tax benefits, such as the adoption credit, into an increased child credit and standard deduction would result in significant simplification.

JCT estimate: According to JCT, the provision would increase revenues by \$4.7 billion over 2014-2023.

Sec. 1303. Repeal of credit for nonbusiness energy property.

Current law: Under current law, a taxpayer could claim a credit of 10 percent of expenditures for energy-efficient improvements to the building envelope (e.g., windows, doors, skylights, and roofs) of principal residences and credits of fixed dollar amounts ranging from \$50 to \$300 for energy-efficient property including furnaces, boilers, biomass stoves, heat pumps, water heaters, central air conditioners and circulating fans, for property placed in service before 2014. The credit was subject to a lifetime cap of \$500. The credit expired at the end of 2013.

Provision: Under the provision, the credit for nonbusiness energy property would be repealed. The provision would be effective for property placed in service after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 1304. Repeal of credit for residential energy efficient property.

Current law: Under current law, a taxpayer may claim a credit for the purchase of qualified solar electric property and qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is equal to 30 percent of qualifying expenditures. There also is a 30-percent credit for the purchase of qualified geothermal heat pump property, qualified small wind energy property, and qualified fuel cell power plants. The credit applies to property placed in service prior to 2017.

Provision: Under the provision, the credit for residential energy efficient property would be repealed. The provision would be effective for property placed in service after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$2.3 billion over 2014-2023.

Sec. 1305. Repeal of credit for qualified electric vehicles.

Current law: Under current law, a taxpayer could claim a 10-percent credit for the cost of a qualified plug-in electric-drive motor vehicle that is either a low-speed vehicle, motorcycle, or

three-wheeled vehicle prior to 2012. Two- or three-wheeled vehicles must have a battery capacity of at least 2.5 kilowatt-hours. Other vehicles must have a battery capacity of at least 4 kilowatt-hours. The maximum credit for such vehicles was \$2,500. The credit was available for vehicles acquired after February 17, 2009, and before January 1, 2012.

Provision: Under the provision, the credit for qualified electric vehicles would be repealed. The provision would be effective for vehicles acquired after 2011.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2013.

Sec. 1306. Repeal of alternative motor vehicle credit.

Current law: Under current law, a taxpayer may claim a credit for each new qualified fuel cell vehicle, hybrid vehicle, advanced lean burn technology vehicle, and alternative fuel vehicle placed in service by the taxpayer during the tax year. The credit amount varies depending upon the type of technology used, the weight class of the vehicle, the amount by which the vehicle exceeds certain fuel economy standards, and, for some vehicles, the estimated lifetime fuel savings. The credit generally is available for vehicles purchased after 2005, but terminates after 2009, 2010, or 2014, depending on the type of vehicle.

Provision: Under the provision, the credit for qualified fuel cell motor vehicles would be repealed. The provision would be effective for property purchased after 2014.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 1307. Repeal of alternative fuel vehicle refueling property credit.

Current law: Under current law, a taxpayer may claim a 30-percent credit for the cost of installing qualified clean-fuel vehicle refueling property to be used in a trade or business of the taxpayer or installed at the principal residence of the taxpayer. The credit may not exceed \$30,000 per tax year per location in the case of a trade or business, and \$1,000 per tax year per location in the case of a principal residence.

Provision: Under the provision, the alternative motor vehicle credit would be repealed. The provision would be effective for property placed in service after 2014.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 1308. Repeal of credit for new qualified plug-in electric drive motor vehicles.

Current law: Under current law, a taxpayer may claim a credit for each qualified plug-in electric-drive motor vehicle placed in service. A qualified plug-in electric-drive motor vehicle is a motor vehicle that has at least four wheels, is manufactured for use on public roads, meets

certain emissions standards (except for certain heavy vehicles), draws propulsion using a traction battery with at least four kilowatt hours of capacity, and is capable of being recharged from an external source of electricity.

For plug-in electric drive vehicles acquired after 2009, the maximum credit is capped at \$7,500 regardless of vehicle weight. In addition, after that date, no credit is available for low speed plug-in vehicles or for plug-in vehicles weighing 14,000 pounds or more.

After 2009, the 250,000 total plug-in vehicle limitation is replaced with a 200,000 plug-in vehicles per manufacturer limitation. Under the new limitation, the credit phases out over four calendar quarters beginning in the second calendar quarter following the quarter in which the manufacturer limit is reached. A limited \$2,500 credit was available for certain 2- and 3-wheel vehicles through the end of 2013.

Provision: Under the provision, the credit for new qualified plug-in drive vehicles would be repealed. The provision would be effective for vehicles acquired after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$5.0 billion over 2014-2023.

Sec. 1309. Repeal of credit for health insurance costs of eligible individuals.

Current law: Under current law, certain individuals could claim a refundable health coverage tax credit (HCTC) equal to 72.5 percent of the cost of certain types of health coverage purchased prior to 2014. In general, the HCTC was available to individuals who received certain unemployment assistance due to trade-related events (i.e., Trade Adjustment Assistance), as well as individuals over age 55 who received pension benefits from the Pension Benefit Guaranty Corporation. The credit was available for certain employer-based insurance, State-based insurance and, in some cases, insurance purchased in the individual market. The credit expired for coverage months beginning after 2013.

Provision: Under the provision, the HCTC would be repealed. The provision would be effective for months beginning after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 1310. Repeal of first-time homebuyer credit.

Current law: Under current law, a first-time homebuyer could claim a refundable tax credit of up to 10 percent of the purchase price of a principal residence in the United States for residences purchased on or after April 9, 2008, and before May 1, 2010 (or June 30, 2011, for taxpayers on qualified official extended duty outside of the United States). The credit amount was limited to \$8,000 (\$4,000 for married individuals filing a separate return). The credit phased out for taxpayers with MAGI of \$125,000 (\$225,000 for married taxpayers filing a joint return).

Provision: Under the provision, the first-time homebuyer credit would be repealed. The provision would be effective for residences purchased after June 30, 2011.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Subtitle E – Deductions, Exclusions, and Certain Other Provisions

Note: The JCT revenue estimate for the discussion draft reports only the combined, aggregate revenue effect of a number of separate provisions making changes to certain itemized deductions. The specific provisions for which JCT reports only this aggregate revenue effect are as follows:

- Sec. 1402. Mortgage interest;
- Sec. 1403. Charitable contributions;
- Sec. 1404. Denial of deduction for expenses attributable to the trade or business of being an employee;
- Sec. 1405. Repeal of deduction for taxes not paid or accrued in a trade or business;
- Sec. 1406. Repeal of deduction for personal casualty losses;
- Sec. 1408. Repeal of deduction for tax preparation expenses;
- Sec. 1409. Repeal of deduction for medical expenses;
- Sec. 1414. Repeal of 2-percent floor on miscellaneous itemized deductions; and
- Sec. 1415. Repeal of overall limitation on itemized deductions.

According to JCT, these provisions, taken together, would increase revenues by \$853.7 billion over 2014-2023, and reduce outlays by \$4.7 billion over 2014-2023.

Sec. 1401. Exclusion of gain from sale of a principal residence.

Current law: Under current law, a taxpayer may exclude from gross income up to \$500,000 for joint filers (\$250,000 for other filers) of gain on the sale of a principal residence. The property generally must have been owned and used as the taxpayer's principal residence for two out of the previous five years. A taxpayer may only use this exclusion once every two years.

Provision: Under the provision, a taxpayer would have to own and use a home as the taxpayer's principal residence for five out of the previous eight years to qualify for the exclusion. In addition, the taxpayer would only be able to use the exclusion once every five years. The exclusion would be phased out by one dollar for every dollar by which a taxpayer's modified adjusted gross income (MAGI) exceeds \$500,000 (\$250,000 for single filers). The provision would be effective for sales and exchanges after 2014.

Considerations:

- The provision would continue to protect middle-class homeowners who either do not have the documentation to establish basis in their home or who have experienced gains as a result of inflation over a long period of ownership. Meanwhile, speculators and so-

called “flippers” in the housing market would not be rewarded for their activity with tax-exempt income.

- The provision’s “five-out-of-eight year” rule existed prior to 1978, when Congress decided to reduce the necessary holding period. This provision would merely restore the holding period requirement to what it was prior to 1978.

JCT estimate: According to JCT, the provision would increase revenues by \$15.8 billion over 2014-2023.

Sec. 1402. Mortgage interest.

Current law: Under current law, a taxpayer may claim an itemized deduction for mortgage interest paid with respect to a principal residence and one other residence of the taxpayer. Itemizers may deduct interest payments on up to \$1 million in acquisition indebtedness (for acquiring, constructing, or substantially improving a residence), and up to \$100,000 in home equity indebtedness. Under the alternative minimum tax (AMT), however, the deduction for home equity indebtedness is disallowed.

Premiums paid before 2014 on a private mortgage insurance contract issued after 2006 for acquisition indebtedness are generally deductible as qualified residence interest, but this deduction phases out for taxpayers with adjusted gross income exceeding \$100,000.

In addition, the discharge of up to \$2 million in mortgage debt with respect to a principal residence was not subject to tax if the discharge occurred before 2014 and was on account of a decline in the value of the residence or the financial condition of the borrower.

Provision: Under the provision, a taxpayer may continue to claim an itemized deduction for interest on acquisition indebtedness, but the \$1 million limitation would be reduced to \$500,000 in four annual increments, so that the limitation would be \$875,000 for debt incurred in 2015, \$750,000 for debt incurred in 2016, \$625,000 for debt incurred in 2017, and \$500,000 for debt incurred thereafter. Similar to the current-law AMT rule, interest on home equity indebtedness incurred after the effective date would not be deductible. The provision would generally be effective for interest paid on debt incurred after 2014. In the case of refinancings of debt incurred prior to 2018, the refinanced debt generally would be treated as incurred on the same date that the original debt was incurred for purposes of determining the limitation amount applicable to the refinanced debt.

The provision also would require that information reporting for mortgage interest also include the mortgage origination date and the amount of the outstanding principal on the mortgage as of the beginning of the calendar year. The information reporting provision would be effective for returns and statements for calendar years after 2014.

Considerations:

- The provision would preserve a substantial tax benefit for homeownership without affecting most taxpayers, who either do not itemize their deductions or who live in moderately priced housing markets.
- Because of other changes in the discussion draft, far fewer taxpayers would choose to itemize overall, with the remaining 95 percent of taxpayers finding they are better off by taxing advantage of the larger, simpler standard deduction instead. And, for those taxpayers who would continue to itemize, no existing mortgage would be affected by this provision, and 95 percent of future mortgages are also expected to be unaffected.
- By reducing the current-law \$1 million limitation, the provision would more effectively promote homeownership, rather than also promoting leveraged purchases of larger homes than taxpayers otherwise would acquire without the tax benefit.
- The provision would phase in the reduced limitation and only apply to new debt to avoid disrupting the housing market, which more broadly will benefit from comprehensive, pro-growth tax reform. Indeed, historical data show that the strength of the nation's housing market is tied more closely to the health of the overall economy than to any specific tax policies that may be in place. The best way to promote a thriving housing market is to improve the overall economy, which is precisely what comprehensive tax reform is designed to achieve.
- By creating a stronger economy, the discussion draft as a whole is estimated – based on calculations using data provided by the independent, non-partisan Joint Committee on Taxation – to increase the rate of growth in home values by up to 40 percent.

JCT estimate: For information about JCT's revenue estimate for this provision, see the note immediately following the heading for Subtitle E of Title I in this document.

Sec. 1403. Charitable contributions.

Current law: Under current law, a taxpayer may claim an itemized deduction for charitable contributions. To be eligible, a contribution must be made by the last day of the tax year for which a return is filed. Thus, for a calendar year taxpayer, a contribution must be made on or before December 31 to be included on a tax return for that tax year, which must be filed by April 15 of the following year.

A charitable contribution deduction is limited to a certain percentage of the individual's adjusted gross income (AGI). The AGI limitation varies depending on the type of property contributed and the type of exempt organization receiving the property. In general, cash contributed to public charities, private operating foundations, and certain non-operating private foundations may be deducted up to 50 percent of the donor's AGI. Contributions that do not qualify for the 50-percent limitation (e.g., contributions to private foundations) may be deducted up to the lesser of (1) 30 percent of AGI, or (2) the excess of the 50-percent-of-AGI limitation for the tax year over the amount of charitable contributions subject to the 30-percent limitation.

Capital gain (i.e., appreciated) property contributed to public charities, private operating foundations, and certain non-operating private foundations may be deducted up to 30 percent of

AGI. Capital gain property contributed to non-operating private foundations may be deducted up to the lesser of (1) 20 percent of AGI, or (2) the excess of the 30-percent-of-AGI limitation over the amount of property subject to the 30-percent limitation for contributions of capital gain property. In general, qualified conservation contributions (e.g., conservation easements) are subject to the 30-percent limitation. Under a temporary provision, however, qualified conservation contributions made in tax years beginning before 2014 may be deducted up to 50 percent of AGI, or up to 100 percent of AGI in the case of property used in agriculture or livestock production.

If an individual contributes more than the applicable AGI limits, the excess contribution generally may be carried over and deducted in the following five tax years, or 15 years in the case of qualified conservation contributions.

In general, taxpayers may deduct the fair market value of a charitable contribution. A variety of complex rules under current law, however, limit the amount of a charitable deduction to less than fair market value (e.g., the taxpayer's adjusted basis) based on the type of property and charitable organization receiving the contribution.

In general, a charitable deduction is disallowed to the extent a taxpayer receives a benefit in return. A special rule, however, permits taxpayers to deduct as a charitable contribution 80 percent of the value of a contribution made to an educational institution to secure the right to purchase tickets for seating at an athletic event in a stadium at that institution.

In general, the value of a deduction for intellectual property is limited to the property's adjusted basis. Under current law, however, the donor is allowed an additional deduction equal to a percentage of the income generated by the intellectual property over the 12 years following the contribution, even though that income is likely earned by a tax-exempt entity.

Provision: Under the provision, numerous changes would be made to the rules applicable to charitable contributions, all of which, unless otherwise indicated, would be effective for tax years after 2014.

Extension of time to file: Under the provision, individual taxpayers would be permitted to deduct charitable contributions made after the close of the tax year but before the due date of the return (April 15 for calendar year taxpayers) for the tax year covered by the return.

AGI limitations: Under the provision, the AGI limitations on deductible contributions would be substantially simplified. First, the 50-percent limitation for cash contributions and the 30-percent limitation for contributions of capital gain property to public charities and certain private foundations would be harmonized at a single limit of 40 percent. Second, the 30-percent contribution limit for cash contributions and the 20-percent limitation for contributions of capital gain property that apply to organizations not covered by the current 50-percent limitation rule would be harmonized at a single limit of 25 percent. Thus, contributions to this latter group of organizations would be allowed to the extent they do not exceed the lesser of (1) 25 percent of AGI or (2) the excess of 40 percent of AGI for the tax year over the amount of charitable contributions subject to the 25-percent limitation.

Two-percent floor: Under the provision, an individual's charitable contributions could be deducted only to the extent they exceed 2 percent of the individual's AGI. The reduction would apply to charitable contributions in the following order: first, to contributions subject to the 25-percent of AGI limitation; second, to qualified conservation contributions; and third, to contributions subject to the 40-percent limitation.

Value of deduction generally limited to adjusted basis: Under the provision, the rules for determining the value of the deduction for contributions of property (e.g., fair market value or adjusted basis) would be substantially simplified. The amount of any charitable deduction generally would be equal to the adjusted basis of the contributed property. For the following types of property, however, the deduction would be based on the fair market value of the property less any ordinary gain that would have been realized if the property had been sold by the taxpayer at its fair market value:

- (1) tangible property related to the purpose of the donee exempt organization;
- (2) any qualified conservation contribution;
- (3) any qualified inventory contribution;
- (4) any qualified research property; and
- (5) publicly traded stock.

In addition, in the case of inventory contributed solely for the care of the ill, needy, or infants, the provision would preserve the current law rule that provides a higher valuation for the charitable deduction.

Qualified conservation contributions: Under the provision, the special, temporary rules for conservation easements, including the rules for farmers or ranchers, would be made permanent. The general rule would provide that deductions for conservation easements would be limited to 40 percent of AGI. Farmers and ranchers would still be allowed a charitable deduction up to 100 percent of AGI for property used in agricultural or livestock production. The provision also would clarify that no deduction is permitted for land reasonably expected to be used as a golf course. This portion of the provision would be effective for tax years after 2013.

College athletic event seating rights: Under the provision, the special rule that provides a charitable deduction of 80 percent of the amount paid for the right to purchase tickets for athletic events would be repealed.

Income from intellectual property: Under the provision, income from intellectual property contributed to a charitable organization would no longer be allowed as an additional contribution by the donor. The deduction for the contribution of the intellectual property would be retained.

Considerations:

- Because a taxpayer must itemize to claim a charitable deduction, only about 25 percent of Americans benefit from the current charitable contribution rules. While other changes in the discussion draft would result in fewer taxpayers choosing to itemize overall – as the remaining 95 percent would take advantage of the larger, simpler standard deduction

instead – the changes to the charitable contribution rules would continue to provide significant tax incentives for those who would continue to itemize.

- The provision recognizes that Americans typically contribute to churches, community organizations and other public charities out of generosity, not for a tax benefit, which only higher income individuals generally claim under current law. The provision would continue to provide a tax incentive for individuals who want to make large contributions to public charities.
- Moreover, historical data show that the total amount of charitable giving is tied more closely to the health of the overall economy than to any specific tax policies that may be in place. The best way to promote charitable giving to the organizations doing so much good in communities across the country is to improve the overall economy, which is precisely what comprehensive tax reform is designed to achieve.
- As noted below, several aspects of the provision would encourage charitable giving in important ways, and by creating a stronger economy, the discussion draft as a whole is estimated – based on calculations using data provided by the independent, non-partisan Joint Committee on Taxation – to increase charitable giving by up to \$2.2 billion per year.
- Enabling individuals to take charitable deductions in a particular tax year through the due date for that return (typically April 15 of the following year) is expected to increase charitable giving, since many taxpayers will decide to give more generously at the time they are actually preparing and finalizing their returns.
- The provision also would continue to provide an incentive for contributions of conservation easements for the benefit of our communities and the environment.
- The provision would simplify the complex rules and limitations with respect to charitable contributions to make the tax law easier to understand and to help taxpayers better comply with the rules.

JCT estimate: For information about JCT’s revenue estimate for this provision, see the note immediately following the heading for Subtitle E of Title I in this document.

Sec. 1404. Denial of deduction for expenses attributable to the trade or business of being an employee.

Current law: Under current law, a taxpayer generally may claim a deduction for trade and business expenses, regardless of whether the taxpayer itemizes deductions or take the standard deduction. Taxpayers generally may claim expenses relating to the trade or business of being an employee only if they itemize deductions. Certain expenses attributable to the trade or business of being an employee, however, are allowed as above-the-line deductions, including reimbursed expenses included in the employee’s income, certain expenses of performing artists, certain expenses of State and local government officials, certain expenses of elementary and secondary school teachers (for tax years beginning after 2001 and before 2014), and certain expenses of members of reserve components of the United States military.

Provision: Under the provision, a taxpayer would not be allowed an itemized deduction for expenses attributable to the trade or business of performing services as an employee. In addition,

the only above-the-line deductions allowed for expenses attributable to the trade or business of being an employee would be those for reimbursed expenses and certain expenses of members of reserve components of the United States military. The provision would be effective for tax years beginning after 2014.

Considerations:

- In conjunction with an increased standard deduction and lower overall tax rates, the provision would simplify the tax laws for taxpayers who currently claim deductions for employee business expenses.
- Keeping records of these expenses is often very burdensome for taxpayers, and this current-law deduction also poses administrative and enforcement challenges for the IRS.

JCT estimate: For information about JCT's revenue estimate for this provision, see the note immediately following the heading for Subtitle E of Title I in this document.

Sec. 1405. Repeal of deduction for taxes not paid or accrued in a trade or business.

Current law: Under current law, an individual may claim an itemized deduction for State and local government income and property taxes paid. In lieu of the itemized deduction for State and local income taxes, individuals may claim, for tax years beginning before 2014, an itemized deduction for State and local government sales taxes.

Provision: Under the provision, individuals would only be allowed a deduction for State and local taxes paid or accrued in carrying on a trade or business or producing income. The provision would be effective for tax years beginning after December 31, 2014.

Considerations:

- In conjunction with an increased standard deduction and lower overall tax rates, the provision would simplify the tax laws for taxpayers who currently claim itemized deductions for non-business State and local taxes.
- The provision would eliminate a tax benefit that effectively subsidizes higher State and local taxes and increased spending at the State and local level.

JCT estimate: For information about JCT's revenue estimate for this provision, see the note immediately following the heading for Subtitle E of Title I in this document.

Sec. 1406. Repeal of deduction for personal casualty losses.

Current law: Under current law, an individual may claim an itemized deduction for personal casualty losses (i.e., losses not connected with a trade or business or entered into for profit), including property losses arising from fire, storm, shipwreck, or other casualty, or from theft.

Provision: Under the provision, the deduction for personal casualty losses would be repealed. The provision would be effective for tax years beginning after 2014.

JCT estimate: For information about JCT's revenue estimate for this provision, see the note immediately following the heading for Subtitle E of Title I in this document.

Sec. 1407. Limitation on wagering losses.

Current law: Under current law, a taxpayer may claim an itemized deduction for losses from gambling, but only to the extent of gambling winnings. However, taxpayers may claim other deductions connected to gambling that are deductible regardless of gambling winnings.

Provision: Under the provision, all deductions for expenses incurred in carrying out wagering transactions (not just gambling losses) would be limited to the extent of wagering winnings. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 1408. Repeal of deduction for tax preparation expenses.

Current law: Under current law, an individual may claim an itemized deduction for tax preparation expenses.

Provision: Under the provision, an individual would not be allowed an itemized deduction for tax preparation expenses. The provision would be effective for tax years beginning after 2014

JCT estimate: For information about JCT's revenue estimate for this provision, see the note immediately following the heading for Subtitle E of Title I in this document.

Sec. 1409. Repeal of deduction for medical expenses.

Current law: Under current law, a taxpayer may claim an itemized deduction for out-of-pocket medical expenses of the taxpayer, a spouse, or a dependent. This deduction is allowed only to the extent the expenses exceed 10 percent of the taxpayer's adjusted gross income.

Provision: Under the provision, the itemized deduction for medical expenses would be repealed. The provision would be effective for tax years beginning after 2014.

JCT estimate: For information about JCT's revenue estimate for this provision, see the note immediately following the heading for Subtitle E of Title I in this document.

Sec. 1410. Repeal of disqualification of expenses for over-the-counter drugs under certain accounts and arrangements.

Current law: Under prior law, expenses incurred for over-the-counter medicine could constitute qualified medical expenses for purposes of receiving tax-favored reimbursements from Health Savings Accounts, Archer MSAs, and Health Flexible Spending Arrangements (“health accounts”). Pursuant to section 9003 of the Patient Protection and Affordable Care Act, however, taxpayers now may not receive tax-free disbursements from health accounts to pay for medicine other than prescription medication and insulin.

Provision: Under the provision, the prohibition on using tax-free funds from health accounts to pay for over-the-counter drugs would be repealed, and expenses for such medication could again constitute qualified medical expenses. The provision would be effective for expenses incurred after 2014.

Considerations:

- The provision would reinstate the prior-law treatment of over-the-counter drugs as qualified expenses for purposes of health accounts, repealing the prohibition on the use of tax-free funds from such accounts enacted in the Affordable Care Act (ACA).
- The provision recognizes that diseases and other physical ailments often can be cured, mitigated, treated, or prevented through the use of over-the-counter drugs, rather than prescription drugs. Moreover, because over-the-counter medicines are often less expensive treatment options, repealing the ACA prohibition could help reduce overall health care spending.

JCT estimate: According to JCT, the provision would reduce revenues by \$3.3 billion over 2014-2023.

Sec. 1411. Repeal of deduction for alimony payments and corresponding inclusion in gross income.

Current law: Under current law, alimony payments generally are an above-the-line deduction for the payor and included in the income of the payee. However, alimony payments are not deductible by the payor or includible in the income of the payee if designated as such by the divorce decree or separation agreement.

Provision: Under the provision, alimony payments would not be deductible by the payor or includible in the income of the payee. The provision would be effective for any divorce decree or separation agreement executed after 2014 and to any modification after 2014 of any such instrument executed before such date if expressly provided for by such modification.

Considerations:

- The provision would eliminate what is effectively a “divorce subsidy” under current law, in that a divorced couple can often achieve a better tax result for payments between them than a married couple can.

- The provision recognizes that the provision of spousal support as a consequence of a divorce or separation should have the same tax treatment as the provision of spousal support within the context of a married couple, as well as the provision of child support.

JCT estimate: According to JCT, the provision would increase revenues by \$5.5 billion over 2014-2023.

Sec. 1412. Repeal of deduction for moving expenses.

Current law: Under current law, a taxpayer may claim a deduction for moving expenses incurred in connection with starting a new job, regardless of whether or not the taxpayer itemizes his deductions. To qualify, the new workplace generally must be at least 50 miles farther from the former residence than the former place of work or, if the taxpayer had no former workplace, at least 50 miles from the former residence.

Provision: Under the provision, the deduction for moving expenses would be repealed. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$8.0 billion over 2014-2023.

Sec. 1413. Termination of deduction and exclusions for contributions to medical savings accounts.

Current law: Under current law, an individual may claim an above-the-line deduction for contributions to an Archer Medical Savings Account (MSA) and exclude from income employer contributions to an MSA. In general, Archer MSAs may be set up by an individual working for a small employer and who participates in the employer's high-deductible health plan. The total amount of monthly contributions to an Archer MSA may not exceed one-twelfth of 65 percent of the annual deductible for an individual with a self-only plan and one-twelfth of 75 percent of the annual deductible for an individual with family coverage. Distributions from the accounts used to pay qualified medical expenses are not taxable. Archer MSAs may not be established after 2005. Archer MSA balances may be rolled over on a tax-free basis to another Archer MSA or to a Health Savings Account (HSA).

Provision: Under the provision, no deduction would be allowed for contributions to an Archer MSA, and employer contributions to an Archer MSA would not be excluded from income. Existing Archer MSA balances, however, could continue to be rolled over on a tax-free basis to an HSA. The provision would be effective for tax years beginning after 2014.

Considerations:

- There is no manner in which Archer MSAs are more favorable than HSAs; thus, no taxpayer would see his ability to save for future health costs restricted.

- As a result, the provision merely simplifies the Code by consolidating two similar tax-favored accounts into a single account with more taxpayer-friendly rules (i.e., HSAs).

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 1414. Repeal of 2-percent floor on miscellaneous itemized deductions.

Current law: Under current law, “miscellaneous” itemized deductions may only be claimed to the extent such deductions in the aggregate exceed 2 percent of adjusted gross income. The floor applies to all itemized deductions except for those relating to interest, taxes, casualty or theft losses, wagering losses, charitable contributions, medical expenses, impairment-related work expenses, the estate tax for income in respect of a decedent, personal property used in a short sale, computation of tax where the taxpayer restores a substantial amount held under claim of right, annuity payments that cease before the investment is recovered, amortizable bond premium, and cooperative housing corporations. The floor applies after the application of any other limits on such deductions.

Provision: Under the provision, the 2-percent floor on miscellaneous itemized deductions would be repealed. The provision would be effective for tax years after 2014.

JCT estimate: For information about JCT’s revenue estimate for this provision, see the note immediately following the heading for Subtitle E of Title I in this document.

Sec. 1415. Repeal of overall limitation on itemized deductions.

Current law: Under current law, the total amount of otherwise allowable itemized deductions (other than medical expenses, investment interest, and casualty, theft, or wagering losses) is limited for certain upper-income taxpayers (sometimes referred to as the “Pease limitation”). This limitation applies on top of any other limitations applicable to such deductions. Under the Pease limitation, the otherwise allowable total amount of itemized deductions is reduced by 3 percent of the amount by which the taxpayer’s adjusted gross income exceeds a threshold amount. For 2013, the threshold amount is (1) \$250,000 for single individuals, (2) \$300,000 for married couples filing joint returns and surviving spouses, (3) \$275,000 for heads of households, and (4) \$150,000 for married individuals filing a separate return. These amounts are indexed for inflation for tax years beginning after 2013. The Pease limitation does not reduce itemized deductions by more than 80 percent.

Provision: Under the provision, the overall limitation on itemized deductions would be repealed. The provision would be effective for tax years after 2014.

Consideration: The Pease limitation functions as a hidden increase in the top marginal rate for individuals – about 1.2 percent – and adds significant complexity.

JCT estimate: For information about JCT's revenue estimate for this provision, see the note immediately following the heading for Subtitle E of Title I in this document.

Sec. 1416. Deduction for amortizable bond premium allowed in determining adjusted gross income.

Current law: Under current law, the holder of a taxable debt instrument purchased at a premium (i.e., on which the holder paid more for the instrument than the principal payable at maturity) may amortize and deduct the premium over the term of the bond. However, bond premium amortization deductions may only be claimed as itemized deductions (although the deductions are not subject to the 2-percent floor generally applicable to itemized deductions).

Provision: Under the provision, bond premium amortization deductions would be allowed as above-the-line deductions (i.e., without regard to whether a taxpayer itemizes deductions). The provision would apply for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 1417. Repeal of exclusion, etc., for employee achievement awards.

Current law: Under current law, employee achievement awards are excluded from employees' income. To qualify for the tax exclusion, an employee achievement award must be given in recognition of the employee's length of service or safety achievement at a ceremony that is a meaningful presentation. Furthermore, the conditions and circumstances cannot suggest a significant likelihood of the payment of disguised compensation. The employee is taxed to the extent that the cost (or value, if greater) of the award exceeds the employer's deduction for the award. The employer's deduction for employee achievement awards for any employee in any year cannot exceed \$1,600 for qualified plan awards, and \$400 otherwise. A qualified plan award is an employee achievement award that is part of an established written program of the employer, which does not discriminate in favor of highly compensated employees. In addition, the average award (not counting those of nominal value) may not exceed \$400.

Provision: The provision would repeal the exclusion for employee achievement awards, so that such awards would constitute taxable compensation to the recipient. The provision also would repeal the restrictions on employer deductions for such awards. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$3.4 billion over 2014-2023.

Sec. 1418. Clarification of special rule for certain governmental plans.

Current law: Under current law, amounts received as reimbursement of medical expenses under an employer-provided accident or health insurance plan generally are excluded from an employee's gross income. An accident or health insurance plan, however, is disqualified if the plan permits amounts to be paid as medical benefits to a designated beneficiary, other than the employee's spouse or dependents. In such a case, all amounts paid as medical expense reimbursement are includible in the employee's gross income.

Similar rules apply to a governmental accident or health plan that is funded by a medical trust established in connection with a public retirement system and that either has been authorized by a State legislature or received a favorable IRS ruling providing that the trust's income is tax-exempt under Code section 115, which generally exempts States and municipalities from Federal income tax. A special rule provides that such a governmental accident or health plan will not be disqualified (and amounts paid as medical benefits will be excluded from the employee's gross income) if the plan permitted the payment of medical benefits to a deceased participant's beneficiaries (including non-spousal and non-dependent beneficiaries) on or before January 1, 2008. This special rule does not affect the tax treatment of amounts received by the beneficiary, which continue to be taxable. The special rule does not apply to accident or health plans of certain State or political subdivisions, including plans organized as voluntary employees' beneficiary associations (VEBAs) that are exempt from tax under Code section 501(c)(9).

Provision: Under the provision, the special rule would be extended to accident or health plans established in connection with a public retirement system or established by or on behalf of a State or political subdivision that either has been authorized by a State legislature or received a favorable ruling from the IRS that the trust's income is not includible in gross income under either Code section 115 or section 501(c)(9), and that on or before January 1, 2008, provided for payment of medical benefits to a deceased participant's beneficiary. The provision would be effective for payments after the date of enactment.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 1419. Limitation on exclusion for employer-provided housing.

Current law: Under current law, housing and meals provided to an employee and the employee's spouse or dependents for the convenience of the employer are excluded from income if the meals are on the business premises of the employer and the employee is required to accept lodging on the premises of the employer as a condition of employment. In the case of educational institutions, the value of housing provided to their employees also is excluded to the extent the rent paid by the employee is at least the lesser of 5 percent of the lodging's appraised value or the average of the rent paid by individuals (other than employees or students of the educational institution) for comparable lodging provided by the educational institution.

Provision: Under the provision, the exclusion for housing provided for the convenience of the employer and for employees of educational institutions would be limited to \$50,000 (\$25,000 for a married individual filing a joint return). The exclusion also would be limited to one residence. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 1420. Fringe benefits.

Current law: Under current law, various fringe benefits provided by employers to employees are not included in employee income, including no-additional cost services and qualified transportation fringes. No-additional cost services include free air transportation to an employee, retired employee, or dependent, spouse or parent of an employee or retired employee, or widowed spouse of a deceased employee.

A qualified transportation fringe includes, for 2014, up to \$250 per month for qualified parking and up to \$130 for any transit pass provided by an employer to employees (with these amounts adjusted for inflation). The qualified transportation fringe also includes qualified bicycle commuting reimbursement of up to \$20 per month.

Provision: The provision would repeal the exclusion from income for air transportation provided as a no-additional cost service to the parent of an employee. For the qualified transportation fringe benefit, the provision would set the qualified transportation fringe excludable qualified parking amount at \$250 per month, and the excludable transit pass amount at \$130 per month. These amounts would no longer be adjusted for inflation. The provision would repeal the qualified bicycle commuting reimbursement. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$39.0 billion over 2014-2023.

Sec. 1421. Repeal of exclusion of net unrealized appreciation in employer securities.

Current law: Under current law, distributions from tax-deferred retirement plans generally are subject to tax, including the value of any securities distributed. In the case of a lump-sum distribution of employer securities, however, any net unrealized appreciation in the securities is excluded from income, unless the individual elects to forgo the exclusion. A distributee's basis in distributed employer securities is the securities' fair market value, less the unrealized appreciation excluded from gross income, thus preserving any capital gain if the securities are later sold.

Employer securities include the securities issued by the employer or a parent or subsidiary of the employer. The “net unrealized appreciation” is the excess of the fair market value of the employer securities over the retirement plan’s cost of acquiring them.

Provision: Under the provision, the exclusion for net unrealized appreciation in distributed employer securities would be repealed. The distributee generally would have income in the amount of the value of the distributed securities. The provision would be effective for distributions after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.9 billion over 2014-2023.

Sec. 1422. Consistent basis reporting between estate and person acquiring property from decedent.

Current law: Under current law, the basis of property acquired by a beneficiary from a decedent generally is the fair market value of the property on the date of the decedent’s death. Similarly, property included in a decedent’s gross estate for estate tax purposes generally also must be the fair market value on the date of death. However, while both provisions generally require that fair market value on the date of death be used, there is no requirement that the valuations be the same.

Provision: Under the provision, the basis of property acquired from a decedent may not exceed the fair market value of property as reported for estate for tax purposes. This provision would apply to property if inclusion of the property in the decedent’s estate results in additional estate tax liability or if an executor is required to file an estate tax return. The estate would be required to report the value of the property to the IRS and to the beneficiary receiving the property, and the estate would be subject to a penalty for failure to file such an information return. Any underpayment of tax due to the understatement of basis under this provision would be subject to a 20-percent accuracy-related penalty. The provision would be effective for transfers for which an estate tax return is filed after the date of enactment.

JCT estimate: According to JCT, the provision would increase revenues by \$1.6 billion over 2014-2023.

Subtitle F – Employment Tax Modifications

Sec. 1501. Modifications of deduction for Social Security taxes in computing net earnings from self-employment.

Current law: Under current law, a tax is imposed under the Self-Employment Contributions Act (SECA) on the self-employment income of an individual to help finance the Social Security and Medicare trust funds. Under the Social Security component, the rate of tax is 12.4 percent of the first \$117,000 (for 2014) of self-employment income, which is indexed for inflation. Under

the Medicare component, the rate is 2.9 percent, and the amount of self-employment income subject to the Medicare component is not capped. An additional 0.9-percent tax applies for individuals with self-employment income in excess of \$200,000 (single filers) or \$250,000 (married couples).

Under current law, self-employed individuals may deduct one-half of self-employment taxes for income tax purposes. This deduction reflects the fact that under the Federal Insurance Contributions Act (FICA), a similar tax is imposed on an employee's wages, with the liability to pay the tax divided evenly between employer and employee. The deduction is intended to provide parity between FICA and SECA taxes because an employer may deduct, as a business expense, its share of FICA taxes paid. The SECA deduction, however, is larger than the amount needed to make SECA taxes the economic equivalent of FICA taxes because the calculation does not properly reflect the fact that net earnings from self-employment are inclusive of SECA taxes. In addition, the calculation does not take into account the fact that wages above the Social Security wage base (i.e., \$117,000 for 2014) are subject to tax only at the hospital insurance rate of 2.9 percent.

Provision: Under the provision, the deduction with respect to net earnings from self-employment would be modified to make SECA taxes economically equivalent to FICA taxes. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$5.1 billion over 2014-2023.

Sec. 1502. Determination of net earnings from self-employment.

Current law: Under current law, for SECA tax purposes, net earnings from self-employment – upon which the calculation of self-employment income and the SECA tax are based – means the gross income derived by an individual from any trade or business carried on by the individual, less the allowable deductions. Specified types of income or loss are excluded, such as rentals from real estate in certain circumstances, dividends and interest, and gains or losses from the sale or exchange of a capital asset, and certain other property.

Application of the SECA tax can depend on the form of business entity through which the taxpayer operates. For an individual who is a general partner in a partnership, net earnings from self-employment generally include the partner's distributive share of income or loss from any trade or business carried on by the partnership (excluding specified types of income described above). A limited partner's distributive share of partnership income or loss, however, is excluded from SECA. This exclusion does not apply to guaranteed payments for services actually rendered by the limited partner. The IRS takes the position that owners of a limited liability company, which is taxed as a partnership, are treated as general partners for SECA tax purposes.

In contrast, an S corporation shareholder who is an employee of the S corporation is subject to FICA taxes on wages, but is not subject to SECA on S corporation distributions. The question of

how much of the shareholder's distributive share should constitute wages turns on the definition of reasonable compensation, which has been the subject of much controversy and case law.

Provision: Under the provision, the SECA tax would be clarified to apply to general and limited partners of a partnership (including limited liability companies) as well as to shareholders of an S corporation to the extent of their distributive share of the entity's income or loss (subject to the exclusions for certain types of income described above under current law). In determining net earnings from self-employment, partners and S corporation shareholders would be allowed a new deduction designed to approximate the return on invested capital. The effect of the deduction would be that partners and S corporation shareholders who materially participate in the trade or business of the partnership or S corporation would treat 70 percent of their combined compensation and distributive share of the entity's income as net earnings from self-employment (and thus subject to FICA or SECA, as applicable) and the remaining 30 percent as earnings on invested capital not subject to SECA. For partners and S corporation shareholders who do not materially participate in the trade or business (i.e., passive investors), the effect of the deduction would be that no amount would be treated as net earnings from self-employment. The provision would be effective for tax years beginning after 2014.

Considerations:

- Under current law, self-employment taxes are not applied consistently to owners of different types of business entities. An S corporation shareholder, a general partner, and a limited partner are all subject to different rules. Additionally, many LLC owners take the position that they are limited partners and exempted from SECA when they are more properly treated as general partners who are subject to SECA. The disparate application of SECA leads to confusion, poor compliance, and significant opportunities for abuse of the rules, all of which result in similarly situated business owners being treated in substantially different ways. The provision creates a straightforward rule that treats all owners of pass-through businesses equally.
- The provision's distinction between net earnings from self-employment and other income not subject to SECA reflects the fact that over the last several decades, the portion of Gross Domestic Product (GDP) attributable to labor has remained remarkably constant at approximately 70 percent, while the portion of GDP attributable to capital has held steady at roughly 30 percent. The 30-percent deduction recognizes that a portion of the distributive share of a partnership, LLC or S corporation represents earnings on invested capital.
- The material participation standard is a familiar standard that has been used to enforce the passive loss rules since their enactment in 1986.

JCT estimate: According to JCT, the provision would increase revenues by \$15.3 billion over 2014-2023.

Sec. 1503. Repeal of exemption from FICA taxes for certain foreign workers.

Current law: Under current law, certain foreign workers from the Bahamas, Jamaica, and the other British West Indies (or any possession of such country) are exempt from the FICA tax

provided they are lawfully admitted to the United States on a temporary basis to perform agricultural services. A similar exemption applies to certain foreign students and their families present in the United States on a temporary basis for educational purposes and to foreign participants in international cultural exchange programs in the United States.

Provision: Under the provision, the exceptions for foreign agricultural workers, foreign students, and foreign participants in international cultural exchange programs would be repealed. Thus, earnings by such foreign individuals while in the United States would be subject to FICA on the same basis as other employees in the United States. The provision would be effective for remuneration received for services performed after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$7.7 billion over 2014-2023.

Sec. 1504. Repeal of exemption from FICA taxes for certain students.

Current law: Under current law, an exemption from FICA is provided in the case of certain services performed by a student employed by a school, college, or university, provided that the student is enrolled and regularly attending classes at the school, college, or university. The exception also applies to students who perform certain domestic services in a college club, fraternity or sorority.

Provision: Under the provision, the FICA exception for students would be limited to the student's earnings that are less than the amount needed to receive a quarter of Social Security coverage for the year (\$1,200 for 2014). The provision would be effective for remuneration received for services performed after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$13.0 billion over 2014-2023.

Sec. 1505. Override of Treasury guidance providing that certain employer-provided supplemental unemployment benefits are not subject to employment taxes.

Current law: Under current law, certain supplemental unemployment benefit payments (e.g., severance pay) are treated as wages for purposes of income tax withholding. The IRS has issued administrative guidance concluding that severance pay meeting certain requirements is exempt from payroll tax withholding under the Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), and the Railroad Retirement Tax Act (RRTA). The courts have issued conflicting rulings concerning the extent to which severance benefit payments not covered by the IRS administrative guidance are similarly exempt from withholding under FICA, FUTA, and RRTA.

Provision: Under the provision, the IRS guidance exempting certain supplemental unemployment benefit payments from payroll tax withholding would be overridden and the

general tax treatment of severance benefit payments would be clarified, so that all such payments would be subject to income and payroll taxes (i.e., FICA, FUTA and RRTA). The provision would be effective for amounts paid after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.9 billion over 2014-2023.

Sec. 1506. Certified professional employer organizations.

Current law: Under current law, employers are responsible for withholding and payment of certain employment taxes with respect to their employees. In some cases, employers contract with professional employer organizations (PEOs) for human-resource services, such as managing employee payroll and employment taxes. Despite such arrangements, the contractual agreement between the employer and the PEO does not release the employer from responsibility for all taxes due with respect to its employees if the PEO fails to withhold or remit the taxes or otherwise comply with related reporting requirements.

Provision: Under the provision, if an employer becomes a customer of a certified PEO under a contract for employment-tax services with respect to the customer's work site employees, the certified PEO, and not the customer, would be treated as the employer of such work site employees for Federal employment tax purposes. Thus, the customer would be released from liability for employment taxes. To qualify, at least 85 percent of individuals performing services for the customer at the work site (subject to exceptions for certain workers, such as temporary or part-time workers) would have to be covered by a PEO services contract. The services contract would be required to provide that the certified PEO is responsible for wages, employee benefits (if any), and employment taxes regardless of whether the customer pays the certified PEO for such services.

For a PEO to be certified by the IRS, the business must satisfy various requirements intended to ensure that the PEO properly remits wages and employment taxes. Under these requirements, the PEO must satisfy applicable reporting obligations, submit audited financial statements and quarterly auditing reports, and post a bond against the PEO's failure to satisfy its employment tax withholding and payment obligations. The bond would be posted on April 1 and be equal to the greater of 5 percent of employment taxes for the previous calendar year (but not to exceed \$1 million) or \$50,000. A special rule would reduce the bond to \$50,000 during the first three years of a PEO's operations, provided the PEO's employment tax liability for the calendar year does not exceed \$5 million. The provision would apply only for purposes of employment taxes under Chapter 25 of the Code and would not create any inference with respect to who is an employee or employer for any other provision of law.

The provision would be effective for wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after date of enactment (e.g., January 1, 2016, assuming the date of enactment is during calendar year 2014), and the IRS would be required to establish the PEO certification program no later than six months prior to such date.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Subtitle G – Pensions and Retirement

Part 1 – Individual Retirement Plans

Secs. 1601-1603. Elimination of income limits on contributions to Roth IRAs; No new contributions to traditional IRAs; Inflation adjustment for Roth IRA contributions.

Current law: Under current law, taxpayers may contribute to traditional Individual Retirement Accounts (IRAs) up to \$5,500 for 2014, with an additional \$1,000 catch-up contribution permitted for those at least 50 years old. These contribution limits are indexed for inflation. Contributions to a traditional IRA are deductible, earnings are not taxed currently, and distributions are included in income. Taxpayers may also make non-deductible IRA contributions with after-tax dollars, and earnings on amounts invested in the IRA are not currently taxed, but distributions (less previously taxed contributions) are subject to tax. Additionally, taxpayers may contribute up to the same limits to Roth IRAs but with after-tax contributions. Earnings and distributions from Roth IRAs are excluded from income. The \$5,500 and \$1,000 annual limits apply in the aggregate to the three types of IRAs.

Taxpayers covered by employer-sponsored retirement plans may not contribute to a traditional IRA if they are married filing separately, or if they exceed certain income levels. In 2014, the phase-out range for participation in a traditional IRA is \$60,000 to \$70,000 for singles and heads of households, \$96,000 to \$116,000 for joint returns for a spouse who is covered by an employer-sponsored plan, and \$181,000 to \$191,000 for the spouse who is not covered. Taxpayers not covered by an employer-sponsored plan may contribute to a traditional IRA regardless of income. There are no income limits on eligibility to contribute to non-deductible traditional IRAs. For Roth IRAs, eligibility does not depend on participation in an employer plan, but the contribution limit phases out over a range of \$114,000 to \$129,000 for singles and \$181,000 to \$191,000 for joint returns.) These amounts are indexed for inflation.

Provision: Under the provisions, the income eligibility limits for contributing to Roth IRAs would be eliminated and new contributions to traditional IRAs and non-deductible traditional IRAs would be prohibited. The inflation adjustment of the annual limit on Roth IRA contributions also would be suspended until tax year 2024, at which time inflation indexing would recommence based off of the frozen level. The provisions would be effective for tax years beginning after 2014.

Considerations:

- These provisions would help Americans achieve greater retirement security by effectively increasing the amounts they have available at retirement. Most people saving in traditional IRAs do not consider the taxes that will be due upon distribution, and mistakenly assume that their entire account balance will be available to them upon

retirement. In contrast, the entire balance in a Roth account is distributed free of tax and is available for retirement needs.

- These provisions would help Americans save for retirement by simplifying their options. The multitude of types of IRAs, with their different income limits and other varying requirements (such as minimum distribution rules), results in many Americans simply not saving because of the complexity. Streamlining the choices would encourage more Americans to save.
- When interest rates are relatively low, as they have been for the last several years, freezing the inflation adjustment would have little or no effect on the annual Roth IRA contribution limitations. For example, the maximum Roth IRA contribution of \$5,500 is the same for 2013 and 2014.

JCT estimate: According to JCT, the provisions would increase revenues by \$14.8 billion over 2014-2023, and would reduce outlays by \$1.9 billion over 2014-2023.

Sec. 1604. Repeal of special rule permitting recharacterization of Roth IRA contributions as traditional IRA contributions.

Current law: Under current law, an individual may re-characterize a contribution to a traditional IRA as a contribution to a Roth IRA (and vice versa). An individual may also re-characterize a conversion of a traditional IRA to a Roth IRA. The deadline for re-characterization generally is October 15 of the year following the contribution or conversion. When a re-characterization occurs, the individual is treated for tax purposes as having made the original contribution to the second account or not having made the conversion. The re-characterization must include any net earnings related to the contribution.

Provision: Under the provision, the rule allowing re-characterization of Roth IRA contributions or conversions would be repealed. Note that under other provisions of the discussion draft, no new contributions to traditional IRAs would be permitted. The provision would be effective for tax years beginning after 2014.

Consideration: This provision would prevent a taxpayer from gaming the system by converting to a Roth IRA, investing in an extremely aggressive fashion and benefiting from any gains (which are never subject to tax), but retroactively reversing the conversion if the taxpayer suffers a loss to avoid taxes on some or all of the converted amount.

JCT estimate: According to JCT, the provision would increase revenues by \$0.4 billion over 2014-2023.

Sec. 1605. Repeal of exception to 10-percent penalty for first home purchases.

Current law: Under current law, an additional 10-percent tax generally is imposed on distributions from retirement plans and Individual Retirement Accounts (IRAs) occurring before the account holder reaches age 59½. This 10-percent tax is in addition to any income tax that

may be due on the distribution. There are several exceptions to the early withdrawal penalty, including early distributions of up to \$10,000 to pay for first-time homebuyer expenses.

Provision: Under the provision, the exception to the additional 10-percent tax for early distributions used to pay for first-time homebuyer expenses would be repealed. The provision would be effective for distributions after 2014.

Consideration: The provision would help Americans achieve greater retirement security by encouraging taxpayers not to make withdrawals from their accounts before retirement.

JCT estimate: According to JCT, the provision, along with section 1210 of the discussion draft, would increase revenues by \$0.3 billion over 2014-2023.

Part 2 – Employer-Provided Plans

Secs. 1611-1612. Termination for new SEPs; Termination for new SIMPLE 401(k)s.

Current law: Under current law, certain employers may offer a Simplified Employee Pension (SEP) IRA, which generally may only accept employer contributions. (Certain grandfathered SEPs, called SARSEPs, also may accept employee contributions.) The maximum contribution to a SEP is the lesser of the overall limit for contributions to a defined-contribution plan (\$52,000 for 2014, indexed for inflation) or 25 percent of the employee's compensation. Employers must make contributions on behalf of all employees, which generally must be the same percentage of compensation for all employees.

For employers with no more than 100 employees, the Savings Incentive Match Plan for Employees (SIMPLE) option allows sponsoring employers to set up a SIMPLE 401(k) plan or a SIMPLE IRA. Under the SIMPLE 401(k) plan, the employer generally may satisfy the nondiscrimination rules by matching contributions up to 2 percent of compensation or non-elective contributions equal to 3 percent of compensation. A SIMPLE 401(k) must allow each eligible employee to participate through salary reduction contributions equal to a specified percentage of compensation up to \$12,000 for 2014 (indexed for inflation). Individuals who are at least 50 years old may contribute annually up to another \$2,500 (indexed for inflation). Under the SIMPLE IRA, sponsoring employers generally must follow similar contribution requirements, and the employee contribution annual limits are the same, but with individual IRA accounts established for the participating employees.

Provision: Under the provisions, employers would not be permitted to establish new SEPs or SIMPLE 401(k) plans after 2014. Employers would be permitted to continue making contributions to existing SEPs and SIMPLE 401(k) plans. SIMPLE IRAs would continue to be available. The SEP provision would be effective for tax years beginning after 2014, and the SIMPLE 401(k) provision would be effective for plan years beginning after 2014.

Considerations:

- The multitude of confusing plans and accounts from which employers must choose if they want to set up a tax-qualified plan to help employees save for retirement serves to dissuade many employers from establishing any workplace retirement plan.
- Today, SIMPLE IRAs and 401(k) plans are the most popular defined-contribution options selected by businesses starting new retirement plans. SEPs and SIMPLE 401(k) plans lack many of the flexibilities of these other plan options and are not as commonly selected.
- The provision reduces the complexity of choices facing employers looking to start a retirement plan, encouraging employers to make a workplace retirement plan available to more Americans.

JCT estimate: According to JCT, the provisions would increase revenues by \$0.6 billion over 2014-2023.

Sec. 1613. Rules related to designated Roth contributions.

Current law: Under current law, 401(k) plans may offer either traditional accounts alone or both traditional and Roth accounts. Contributions to a traditional 401(k) account are not included in the employee's income and earnings are not currently taxed, while distributions are treated as taxable income. Contributions to a 401(k) Roth account are made out of the employee's after-tax income. Earnings in a Roth account are not taxable currently, and distributions generally are not taxable if the employee meets certain holding period and age requirements. If a 401(k) plan has a Roth option, the employee (but not the employer) may contribute to the Roth account, the traditional account, or both. Employer contributions to a 401(k) plan for employees with Roth accounts must be made into separate traditional accounts for the employee for whom the contribution is made. For these purposes, 403(b) plans and 457(b) plans are treated like 401(k) plans.

Provision: Under the provision, employees would generally be able to contribute up to half the maximum annual elective deferral amount (including catch-up contributions for employees at least 50 years old, if applicable) into a traditional account. (For 2014, the maximum annual elective deferral amount is \$17,500, and the maximum catch-up amount is \$5,500 (for a total of \$23,000 for such employees)). Any contributions in excess of half of these limits – \$8,750 and \$11,500, respectively – would be to a Roth account. Employees could contribute up to the entire annual elective deferral amount into a Roth account if they wish. Plans would generally be required to offer Roth accounts. Employer contributions would continue to be made to traditional accounts.

The provision would not apply to employers with 100 or fewer employees. In addition, employers may choose to have Roth accounts in a SIMPLE IRA, and if an employer with a SIMPLE IRA elects to limit traditional employee contributions to half the annual contribution limits, the employee contribution limits to such SIMPLE IRA would be increased to the contribution limits for a 401(k) plan. For purposes of this provision, 403(b) plans and 457(b) plans would be treated like 401(k) plans. The provision would generally be effective for plan

years and tax years beginning after 2014. The SIMPLE IRA portion of the provision would be effective for tax years and calendar years beginning after 2014.

Considerations:

- The provision would help Americans achieve greater retirement security by effectively increasing the amounts they have available at retirement. Many people saving in traditional 401(k) plans do not consider the taxes that will be due upon distribution, and assume that their entire account balance will be available to them upon retirement. In contrast, the entire balance in a Roth account is distributed free of tax, and is available for retirement needs.
- Only approximately 17 percent of those making contributions to 401(k) plans in a given year contribute more than 50 percent of the maximum amount and thus would be affected by the provision. This amounts to only approximately 5 percent of the civilian workforce.

JCT estimate: According to JCT, the provision would increase revenues by \$143.7 billion over 2014-2023.

Sec. 1614. Modifications of required distribution rules for pension plans.

Current law: Under current law, owners of traditional IRAs and employees in employer-sponsored retirement plans (both defined contribution and defined benefit plans) are subject to required minimum distribution (RMD) rules, which generally require the IRA owner (other than Roth IRAs) or employee (if he has retired, except for a 5-percent owner) to take minimum distributions beginning at age 70½ or pay a 50-percent excise tax on the amount of such distributions. Special rules apply when the IRA owner (including a Roth IRA owner) or employee dies before the entire account balance has been withdrawn. If the death occurs on or after the required beginning date for RMDs, the remaining amount must be distributed to the beneficiaries at least as rapidly as distributed to the decedent as of the date of death (but over the life expectancy of any designated beneficiary, if longer). Absent a designated beneficiary, the distribution period is the remaining life expectancy of the IRA owner or employee at the time of death. If an IRA owner or employee dies before the required beginning date and any part of the benefit is payable to a designated beneficiary, distributions generally must begin within one year of death and are spread over the life expectancy of the designated beneficiary. If the IRA owner or employee dies before the required beginning date and there is no designated beneficiary, the entire remaining account balance generally must be distributed to the estate by the end of the fifth year following the death.

Provision: Under the provision, if an employee becomes a 5-percent owner after age 70½ but before retiring, the required beginning date for RMDs would be April 1 of the following year. With respect to IRAs and employer-sponsored retirement plans that exist when the IRA owner or employee dies distributions would be required within five years (regardless of whether the IRA owner or employee dies before or after RMDs have begun). An exception would apply if the beneficiary is a spouse, is disabled, chronically ill, not more than 10 years younger than the deceased, or is a child, and would permits distributions to begin within one year of death and be

spread over the life expectancy of the beneficiary. However, if that beneficiary dies or a child beneficiary turns 21, the general five-year-distribution rule would apply upon such occurrence.

The provision regarding RMDs after the death of an IRA owner or employee generally would be effective for distributions with respect to IRA owners or employees who die after 2014. The provisions would not apply to certain qualified annuities that are binding annuity contracts in effect on the date of enactment and at all times thereafter. The provision changing RMDs for 5-percent owners generally would become effective for employees becoming 5-percent owners with respect to plan years ending in calendar years beginning before, on, or after the date of enactment – except that the provision would not result in a required beginning date earlier than April 1, 2015.

Considerations:

- The provision would simplify the current complex required minimum distribution rules and reduce the compliance burdens on seniors and beneficiaries of IRAs and other retirement plans.
- The provision would also address the issue in current law that permits deferral of tax on retirement savings not only until the account owner's retirement, but also well past the owner's life if the beneficiary chooses to spread the RMDs over his life expectancy.
- The provision also safeguards the ability of individuals to provide resources for spouses, minor children, and others with special needs through beneficiary designations on retirement accounts.
- The modifications in the provision would not affect the ability or incentive for Americans to save for retirement.

JCT estimate: According to JCT, the provision would increase revenues by \$3.5 billion over 2014-2023.

Sec. 1615. Reduction in minimum age for allowable in-service distributions.

Current law: Under current law, defined-contribution plans generally are not permitted to allow in-service distributions (i.e., distributions while an employee is still working for the employer) attributable to tax-deferred contributions if the employee is less than 59½ years old. For State and local government defined-contribution plans, and for all defined-benefit plans, the restriction on in-service distributions applies if the employee is less than age 62.

Provision: Under the provision, all defined-benefit plans as well as State and local government defined-contribution plans would be permitted to make in-service distributions beginning at age 59½. The provision would be effective for distributions made after 2014.

Considerations:

- The provision would encourage Americans to continue working or working part-time instead of retiring early in order to access retirement savings at age 59½. Under current law, many employees choose to retire instead of continuing to work because they cannot otherwise access their retirement accounts.

- The provision would provide uniformity across various plan types, allowing all plans to offer in-service distributions at age 59½ instead of having different ages for different types of plans. The varying rules under current law have no apparent justification.

JCT estimate: According to JCT, the provision would increase revenues by \$0.2 billion over 2014-2023.

Sec. 1616. Modification of rules governing hardship distributions.

Current law: Under current law, defined-contribution plans are generally not permitted to allow in-service distributions (distributions while an employee is still working for the employer) attributable to elective deferrals if the employee is less than 59½ years old. One exception is for hardship distributions, which plans have the option of offering participants, but only if the plan follows guidelines such as that any distribution be necessary for an immediate and heavy financial need of the employee. Treasury regulations require that plans not allow employees taking hardship distributions to make contributions to the plan for six months after the distribution.

Provision: Under the provision, the IRS would be required within one year of the date of enactment to change its guidance to allow employees taking hardship distributions to continue making contributions to the plan. The provision would be effective for plan years beginning after 2014.

Considerations:

- The provision would help Americans save for retirement by making common-sense reforms to remove harsh rules that often trap individuals and families going through difficult financial circumstances.
- The provision would overturn Treasury regulations requiring individuals to stop making contributions to their retirement plans in order to take hardship distributions, which often results in such individuals failing to resume retirement savings in the future.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 1617. Extended rollover period for the rollover of plan loan offset amounts in certain cases.

Current law: Under current law, defined-contribution plans are permitted (but not required) to allow plan loans. If the employee fails to abide by the applicable rules, the loan is treated as a taxable distribution that may also be subject to the 10-percent penalty for early withdrawals. If a plan terminates or an employee's employment terminates while a plan loan is outstanding, the employee has 60 days to contribute the loan balance to an individual retirement account (IRA), or the loan is treated as a distribution.

Provision: Under the provision, employees whose plan terminates or who separate from employment while they have plan loans outstanding would have until the due date for filing their tax return for that year to contribute the loan balance to an IRA in order to avoid the loan being taxed as a distribution. The provision would apply to tax years beginning after 2014.

Considerations:

- The provision would help Americans save for retirement by making common-sense reforms to remove harsh rules that often trap individuals and families going through difficult financial circumstances.
- The provision would overturn the current rule requiring individuals who lose their jobs to roll over any outstanding retirement plan loans to an IRA within 60 days or be subject to taxes and penalties on the loan amount.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 1618. Coordination of contribution limitations for 403(b) plans and governmental 457(b) plans.

Current law: Under current law, 401(k) plans generally may allow employees to make elective deferrals of up to \$17,500 for 2014 and an additional \$5,500 catch-up contribution for those who are at least 50 years old. Total employer and employee contributions may not exceed \$52,000 for 2014. Contributions generally may not exceed employee compensation and may only be made by active employees. These amounts are indexed for inflation.

Certain employees with more than 15 years of service who are participants in 403(b) plans may make an additional contribution of up to \$3,000 per year. Entities sponsoring 403(b) plans (typically tax-exempt organizations) also may make non-elective employer contributions of up to \$52,000 in 2014 (indexed for inflation) for up to five years after the employee has separated from service. Similarly, a church may contribute a maximum of \$10,000 per year, even if the participant has no taxable compensation, up to a lifetime limit of \$40,000 per participant. For foreign missionaries with \$17,000 or less in adjusted gross income, a church may contribute up to \$3,000 per year (even in the absence of U.S. taxable compensation).

Participants in 457 plans sponsored by State and local governments are allowed to make additional contributions of up to \$35,000 for 2014 (indexed for inflation) for the three years prior to normal retirement age. State and local government employees may participate in both a 457 plan and either a 403(b) plan or a 401(k) plan in which case the employee may make the maximum allowable annual contributions to each of the plans.

Provision: Under the provision, all defined-contribution plans would be subject to the annual contribution limits currently applicable to 401(k) plans and would not have additional limits for different classes of employees at certain types of employers. The provision would apply to plan years and tax years beginning after 2014.

Consideration: The provision would simplify the Code by treating employees the same regardless of whether they work for private, non-profit or public employers.

JCT estimate: According to JCT, the provisions would increase revenues by \$0.9 billion over 2014-2023.

Sec. 1619. Application of 10-percent early distribution tax to governmental 457 plans.

Current law: Under current law, early distributions from employer-sponsored retirement plans and IRAs are generally subject to an additional tax of 10 percent. This additional tax does not apply to early distributions from 457 plans sponsored by State and local governments.

Provision: Under the provision, participants in governmental 457 plans would be subject to the 10-percent additional tax on early distributions. The provision would be effective for withdrawals after February 26, 2014.

Consideration: The provision would simplify the Code by treating employees the same regardless of whether they work for private, non-profit or public employers.

JCT estimate: According to JCT, the provision would increase revenues by \$0.6 billion over 2014-2023.

Secs. 1620-1624. Inflation adjustments for qualified plan benefit and contribution limitations; Inflation adjustments for qualified plan elective deferral limitations; Inflation adjustments for SIMPLE retirement accounts; Inflation adjustments for catch-up contributions for certain employer plans; Inflation adjustments for governmental and tax-exempt organization plans.

Current law: Under current law, the myriad retirement plan alternatives generally have contributions limits that are indexed for inflation. For 2014, the maximum benefit under a tax-qualified defined benefit plan is an annual payment equal to the lesser of an employee's average compensation for the three highest compensation years or \$210,000. For 401(k), 403(b), and 457 plans (as well as grandfathered SARSEPs), the maximum annual elective deferral by employees is \$17,500 (not counting catch-up contributions for employees at least 50 years old). The maximum combined contribution by employer and employee to a defined contribution plan (as well as SEPs) in 2014 is \$52,000. SIMPLE IRA and SIMPLE 401(k) plans sponsored by small businesses are subject to a maximum annual contribution of \$12,000 (not counting catch-up contributions for employees at least 50 years old) for 2014.

Employees in certain retirement plans who are at least 50 years old may make additional catch-up contributions beyond the otherwise applicable annual contribution limits. For 401(k), 403(b), and 457 plans, the maximum annual catch-up contribution is \$5,500 for 2014. For SIMPLE IRAs and SIMPLE 401(k) plans, the maximum annual catch-up contribution is \$2,500 for 2014.

Provision: Under the provisions, the inflation adjustments for the maximum benefit under a defined benefit plan, the maximum combined contribution by an employer and employee to a defined contribution plan, the maximum elective deferrals with respect to each type of SEP, SIMPLE IRA, and defined contribution plan (i.e., 401(k), 403(b), and 457(b)), and catch-up contributions would be suspended until 2024, at which time inflation indexing would recommence based off of the frozen level. The provisions generally would be effective after 2014. More specifically, the inflation adjustments for qualified plan benefit and contribution limitations would be effective for years ending with or within a calendar year beginning after 2014; the inflation adjustments for qualified plan elective deferral limitations would be effective for plan years and tax years beginning after 2014; the inflation adjustments for SIMPLE retirement accounts would be effective for calendar years beginning after 2014; and the inflation adjustments for catch-up contributions for certain employer plans and for governmental and tax-exempt organization plans would be effective for tax years beginning after 2014.

Consideration: When interest rates are relatively low, as they have been for the last several years, these provisions would have little or no effect on the annual contribution limitations. For example, the maximum employee contribution levels of \$12,000 for SIMPLE IRAs and \$17,500 for 401(k) plans were the same in 2013 and 2014.

JCT estimate: According to JCT, the provisions would increase revenues by \$63.4 billion over 2014-2023.

Subtitle H – Certain Provisions Related to Members of Indian Tribes

Secs. 1701-1703. Indian general welfare benefits; Tribal Advisory Committee; Other relief for Indian tribes.

Current law: Under current law, taxpayers must generally include all items of income in computing gross income. IRS guidance has established a general welfare exclusion under which payments made to individuals by governmental entities pursuant to legislatively provided social benefit programs for the promotion of the general welfare are not included in the recipient's gross income. To qualify under the general welfare exclusion, payments must not be lavish or extravagant, they must be made under a government program based on need, and such payments may not constitute compensation. Under proposed IRS guidance, the IRS will conclusively presume that payments from Indian tribes to tribal members and their spouses and dependents will qualify under the general welfare exclusion if certain requirements are met. Specifically, the payments must be made pursuant to a specific Indian tribal government program with written guidelines, be available to any tribal member meeting those guidelines, not discriminate in favor of the tribe's governing body members, not be compensation for services, and not be extravagant. Taxpayers may rely on the proposed rule until additional guidance is published. Additionally, taxpayers may rely on the proposed rules retroactively to file for refunds for any open tax years.

Provision: Under the provisions, the proposed IRS guidance specifically applying the general welfare exclusion to Indian tribes and payments received by tribal members, their spouses and

children generally would be codified. The provisions also would require the IRS to establish a Tribal Advisory Committee to advise the IRS on matters relating to taxation of tribal members including training and education for IRS agents dealing with tribal members. Additionally, the provisions would provide the IRS with discretion to waive any interest and penalties under the Code for any tribe or tribal member with regard to the general welfare exclusion. The provision codifying the IRS guidance concerning the general welfare exclusion would be effective for tax years for which the period of limitations is open as of the date of enactment, and taxpayers would have one additional year from the date of enactment to file for a refund with respect to any such open tax year.

JCT estimate: According to JCT, the provisions would have negligible revenue effect over 2014-2023.

Title II – Alternative Minimum Tax Repeal

Sec. 2001. Repeal of alternative minimum tax.

Current law: Under current law, taxpayers must compute their income for purposes of both the regular income tax and the alternative minimum tax (AMT), and their tax liability is equal to the greater of their regular income tax liability or AMT liability. In computing the AMT, only alternative minimum taxable income (AMTI) above an AMT exemption amount is taken into account, but AMTI represents a broader base of income than regular taxable income. For example, personal exemptions, the standard deduction, and certain itemized deductions (such as the deduction for State and local taxes) are not allowed in calculating AMTI. In addition, many business tax preferences that are allowed for regular taxable income are not allowed in determining AMTI, including accelerated depreciation. Corporations and, in some cases, non-corporate taxpayers receive a credit for AMT paid, which they may carry forward and claim against regular tax liability in future tax years (to the extent such liability exceeds AMT in a particular year), and which never expire.

For individuals, estates, and trusts, the AMT has a 26-percent bracket and a 28-percent bracket, but capital gains and dividends are taxed under the AMT at the highest rate that such items are taxed under the regular income tax. The 26-percent tax rate applies to the first \$182,500 of AMTI (half that amount for married couples filing separately), and the 28-percent rate applies to AMTI in excess of that amount. For 2014, the AMT exemption amounts for non-corporate taxpayers are \$52,800 for single filers, \$82,100 for joint filers, \$41,050 for married individuals filing separately, and \$23,500 for estates and trusts. The AMT exemption amounts begin phasing out at a 25-percent rate at \$156,500 for joint returns, \$117,300 for singles, and \$78,250 for married individuals filing separately and trusts and estates. These amounts are indexed for inflation.

The corporate AMT rate is 20 percent, and the exemption amount is \$40,000, though corporations with average gross receipts of less than \$7.5 million for the preceding three tax years are exempt from the AMT. The exemption amount for corporations phases out at a 25-percent rate starting at \$150,000.

Provision: Under the provision, the AMT would be repealed. If a taxpayer has AMT credit carryforwards, the taxpayer would be able to claim a refund of 50 percent of the remaining credits (to the extent the credits exceed regular tax for the year) in tax years beginning in 2016, 2017, and 2018. Taxpayers would be able to claim a refund of all remaining credits in the tax year beginning in 2019. The provision would generally be effective for tax years beginning after 2014.

Considerations:

- The requirement that taxpayers compute their income for purposes of both the regular income tax and the AMT is one of the most far-reaching complexities of the current Code.
- According to JCT, the AMT affected about 4 million American families in 2013, and that this number will rise to more than 6 million American families in 2023 under current law.

- Families subject to the AMT face an average tax increase of approximately \$7,300, based on recent IRS Statistics of Income (SOI) data.
- The AMT is particularly burdensome for small businesses, which often do not know whether they will be affected until they file their taxes and therefore must maintain a reserve that cannot be used to hire, expand, and give raises to workers.
- In its 2001 tax simplification report, JCT concluded that the AMT “no longer serves the purposes for which it was intended,” and recommended its repeal.

JCT estimate: According to JCT, the repeal of the individual AMT would reduce revenues by \$1,331.8 billion over 2014-2023, and the repeal of the corporate AMT would reduce revenues by \$110.2 billion over 2014-2023.

Title III – Business Tax Reform

Subtitle A – Tax Rates

Sec. 3001. 25-percent corporate tax rate.

Current law: Under current law, a corporation's regular income tax liability generally is determined by applying the following tax rate schedule to its taxable income:

<u>Taxable income:</u>	<u>Tax rate:</u>
\$0-\$50,000	15 percent
\$50,001-\$75,000	25 percent
\$75,001-\$10,000,000	34 percent
Over \$10,000,000	35 percent

The 15- and 25-percent rates are phased out for corporations with taxable income between \$100,000 and \$335,000. As a result, a corporation with taxable income between \$335,000 and \$10,000,000 effectively is subject to a flat tax rate of 34 percent. Similarly, the 34-percent rate is gradually phased out for corporations with taxable income between \$15,000,000 and \$18,333,333, such that a corporation with taxable income of \$18,333,333 or more effectively is subject to a flat rate of 35 percent.

Personal service corporations are not entitled to use the graduated corporate rates below the 35-percent rate. A personal service corporation is a corporation the principal activity of which is the performance of personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and such services are substantially performed by the employee-owners.

Provision: Under the provision, the corporate tax rate would be a flat 25-percent rate beginning in 2019. A transition rule would set the rate for taxable income up to \$75,000 to 25 percent beginning in 2015, with the rate on income above that level phased down to 25 percent as follows:

<u>For tax years beginning during calendar year:</u>	<u>Tax rate:</u>
2015	33 percent
2016	31 percent
2017	29 percent
2018	27 percent
2019 and later	25 percent

The special rule applicable to personal services corporations would be repealed. The provision would be effective for tax years beginning after 2014.

Considerations:

- Today, U.S. corporations are subject to the highest combined Federal-State tax rate in the industrialized world, which puts American multinational companies at a significant competitive disadvantage against their global competitors.
- Lowering the corporate rate from 35 percent to 25 percent not only would increase America's ability to compete internationally, but also would ensure that American corporations have more resources here in the United States to invest, hire and grow their businesses.
- According to information compiled by the RATE Coalition, reducing the corporate rate to 25 percent would add 581,000 jobs annually and increase GDP growth by 1-2 percent.

JCT estimate: According to JCT, the provision would reduce revenues by \$680.3 billion over 2014-2023.

Subtitle B – Reform of Business-related Exclusions and Deductions**Sec. 3101. Revision of treatment of contributions to capital.**

Current law: Under current law, the gross income of a corporation generally does not include contributions to its capital (i.e., transfers of money or property to the corporation by a non-shareholder such as a government entity). In addition, a corporation does not recognize gain or loss on the receipt of money or property in exchange for stock of the corporation, nor does it recognize gain or loss with respect to any lapse or acquisition of an option to buy or sell its stock.

Provision: Under the provision, the gross income of a corporation would include contributions to its capital (including any premiums received by the corporation with respect to an option written by the corporation to sell its stock), to the extent the amount of money and fair market value of property contributed to the corporation exceeds the fair market value of any stock that is issued in exchange for such money or property. Similar rules would apply to contributions to the capital of any non-corporate entity, such as a partnership. Under section 3423 of the discussion draft, however, the tax liability of a corporation would not take into account income, gains, losses, or deductions with regard to a derivative that relates to the corporation's stock, except for income received with regard to certain forward contracts that relate to the corporation's stock. The provision would be effective for contributions made, and transactions entered into, after the date of enactment.

Consideration: This provision would remove a Federal tax subsidy for State and local governments to offer incentives and concessions to business that locate operations within their jurisdiction (usually in lieu of locating operations in a different State or locality). In conjunction with section 3423 of the discussion draft, the provision also would eliminate current-law loopholes for corporations that engage in transactions involving their own stock.

JCT estimate: According to JCT, the provision would increase revenues by \$8.8 billion over 2014-2023.

Sec. 3102. Repeal of deduction for local lobbying expenses.

Current law: Under current law, businesses generally may deduct ordinary and necessary expenses paid or incurred in connection with carrying on any trade or business. An exception to the general rule, however, disallows deductions for lobbying and political expenditures with respect to legislation and candidates for office, except for lobbying expenses with respect to legislation before local or Indian tribal government bodies.

Provision: Under the provision, deductions for lobbying expenses with respect to legislation before local government bodies (including Indian tribal governments) would be disallowed. The provision would be effective for amounts paid or incurred after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.6 billion over 2014-2023.

Sec. 3103. Expenditures for repairs in connection with casualty losses.

Current law: Under current law, a taxpayer that is engaged in a trade or business generally may deduct any property loss sustained during the tax year (e.g., as a result of a natural disaster) that is not compensated by insurance or otherwise. A taxpayer's loss is limited to the adjusted basis of the property, and adjusted basis is reduced if a casualty loss is deducted. Taxpayers engaged in a trade or business also may deduct amounts paid or incurred to maintain property, including repairs for damage as a result of a natural disaster. If the repairs rise to the level of a permanent improvement or betterment made to increase the value of the property (rather than just to maintain the property), the costs must be capitalized in the basis and recovered over the depreciable life of the property. Some taxpayers have taken the position that both the casualty-loss deduction and the deduction for amounts paid or incurred for repairs may be claimed with respect to the same property damaged in a natural disaster.

Provision: Under the provision, taxpayers could elect either to claim a casualty loss for damaged property (with a corresponding decrease to the property's basis) or to deduct the repair of such property, but not both. The provision would be effective for losses sustained after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 3104. Reform of accelerated cost recovery system.

Current law: Under current law, a taxpayer may recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction with respect to tangible property for a tax year is determined under the modified accelerated cost recovery system (MACRS). Under MACRS, different types of property generally are assigned applicable recovery periods and depreciation methods.

The MACRS recovery periods applicable to most tangible personal property range from three to 25 years. In general, the recovery periods for real property are 39 years for non-residential real property and 27.5 years for residential rental property. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the tax year in which the straight-line method would provide a larger deduction. However, in certain circumstances – such as with respect to corporate taxpayers subject to the alternative minimum tax (AMT) – property must be depreciated under the alternative depreciation system (ADS), which requires longer recovery periods and the use of the straight-line depreciation method. The primary source of IRS guidance for class lives is Revenue Procedure 87-56, 1987-2 C.B. 674, which has not been updated since its release in 1987 (as the result of a statutory prohibition enacted by Congress).

Special depreciation provisions enacted in recent years have also accelerated cost recovery for certain assets. For example, in general, property with a recovery period of less than 20 years placed in service from 2008 through 2013 is eligible for bonus depreciation of either 50 percent or 100 percent, depending on the year. In addition, qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property placed in service before 2014 were eligible for an accelerated recovery period of 15 years.

Provision: Under the provision, MACRS recovery periods and methods would be repealed and rules substantially similar to the ADS rules would apply to depreciable property. Thus, in general, class lives would match more closely the true economic useful life of assets, and depreciation deductions would be determined under the straight-line method. In addition, a taxpayer could elect to take an additional depreciation deduction to account for the effects of inflation on depreciable personal property, calculated by multiplying the year-end adjusted basis in the property (determined without regard to inflation deductions) by the chained CPI rate for the year.

The provision also would repeal the following special depreciation provisions: bonus depreciation, the special recovery periods for Indian reservation property, the special allowance for second generation biofuel plant property, the special allowance for certain reuse and recycling property, and the special allowance for qualified disaster assistance property. In addition, the special depreciation provisions for qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property would be repealed. The provision would require the Treasury Department, in consultation with the Bureau of Economic Analysis, to develop a new schedule of economic depreciation, and submit a report to Congress containing the new schedule and other recommendations by December 31, 2017. The provision would be effective for property placed in service after 2016. Thus, current law would apply to property placed in service during 2014, 2015 and 2016.

Considerations:

- Public companies already must use the straight-line method for purposes of financial statements, and switching to this slower depreciation method does not affect the earnings statements they provide to investors and the Securities and Exchange Commission (SEC). Thus, because most public companies prioritize financial statement earnings, they generally support trading accelerated depreciation for a lower tax rate.

- The provision eliminates numerous special depreciation provisions, simplifying the Code and providing uniform rules for all businesses.
- The longer ADS class lives more accurately reflect the actual economic life of assets.
- In addition, the provision requires the Treasury Department to reexamine the class lives of depreciable assets, focusing on the economic life of the assets, and revise IRS guidance. Such an update has not been published since 1987, and the nature of asset classes has changed dramatically in the last 26 years.

JCT estimate: According to JCT, the provision would increase revenues by \$269.5 billion over 2014-2023.

Sec. 3105. Repeal of amortization of pollution control facilities.

Current law: Under current law, a taxpayer may elect to recover the cost of a certified pollution control facility over a period of 60 months (84 months in the case of certain atmospheric pollution control facilities used in connection with a power plant or other property that is primarily coal-fired) rather than through annual depreciation deductions based on the useful life of the property. A corporate taxpayer must reduce the amount of basis otherwise eligible for the 60-month recovery by 20 percent.

Provision: Under the provision, the special election for amortization of pollution control facilities would be repealed. Accordingly, such facilities would be subject to the general depreciation rules, with the cost recovery of pollution control facilities generally based on the class life of the underlying property (e.g., the building to which the pollution control facility is attached would have a 40-year life). The provision would be effective for facilities placed in service after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$7.9 billion over 2014-2023.

Sec. 3106. Net operating loss deduction.

Current law: Under current law, a net operating loss (NOL) generally is the amount by which a taxpayer's current-year business deductions exceed its current-year gross income. NOLs may not be deducted in the year generated, but may be carried back two years and carried forward 20 years to offset taxable income in such years. The AMT rules provide that a taxpayer's NOL deduction may not reduce the taxpayer's alternative minimum taxable income by more than 90 percent.

Different rules apply with respect to NOLs arising in certain circumstances. A special five-year carryback applies to NOLs arising from a farming loss, losses arising from certain bad debts of commercial banks, and certain amounts related to the Hurricane Katrina and the Gulf Opportunity Zone before 2010. Special rules also apply to specified liability losses (ten-year carryback) and excess interest losses (no carryback to any year preceding a corporate equity

reduction transaction). Additionally, a special rule applied to losses incurred in 2008 and 2009 (up to a five-year carryback) and a special rule applied to certain electric utility companies with respect to NOLs arising in 2003 through 2005 (five-year carryback).

Provision: Under the provision, C corporations could deduct an NOL carryover or carryback only to the extent of 90 percent of the corporation's taxable income (determined without regard to the NOL deduction) – conforming to the current-law AMT rule. The provision also would repeal the special carryback rules for specified liability losses, bad debts losses of commercial banks, excess interest losses relating to corporate equity reduction transactions, and certain farming losses. Additionally, the provision would repeal the expired special rules regarding losses incurred in 2008 and 2009, losses of certain electric utility companies, and losses related to the Hurricane Katrina and the Gulf Opportunity Zone. The provision generally would be effective for tax years beginning after 2014 and losses incurred after 2014 and carried back to prior years.

JCT estimate: According to JCT, the provision would increase revenues by \$70.5 billion over 2014-2023.

Sec. 3107. Circulation expenditures.

Current law: Under current law, expenditures that produce benefits in future tax years to a taxpayer's business or income-producing activities generally are capitalized and recovered over time through depreciation, amortization, or depletion deductions. A special rule, however, allows taxpayers to deduct immediately expenditures to establish, maintain, or increase the circulation of a newspaper, magazine, or other periodical. Under the AMT, however, circulation expenditures must be capitalized and amortized over 36 months.

Provision: Under the provision, taxpayers would recover the cost of circulation expenditures by capitalizing and amortizing such costs over 36 months – conforming to the current-law AMT rule. The provision would be effective for amounts paid or incurred in tax years beginning after 2015, with a three-year phase-in period in which 75 percent of circulation expenditures would be deductible in 2016 (25 percent amortized), 50 percent would be deductible in 2017 (50 percent amortized), and 25 percent deductible in 2018 (75 percent amortized).

JCT estimate: According to JCT, the provision would increase revenues by \$0.6 billion over 2014-2023.

Sec. 3108. Amortization of research and experimental expenditures.

Current law: Under current law, business expenditures associated with the development and creation of an asset having a useful life extending beyond the current year generally must be capitalized and depreciated over such useful life. As an exception to this general rule, taxpayers may elect to deduct currently certain research or experimentation (R&E) expenditures paid or

incurred in connection with a trade or business. Such deductions must be reduced by the amount of the taxpayer's research tax credit.

Provision: Under the provision, all R&E expenditures would be amortized over a five-year period beginning with the midpoint of the tax year in which the expenditure is paid or incurred. The five-year period would continue even in the event any property with respect to which amortization deductions were made is retired or abandoned. Expenditures incurred for the development of software would be treated as R&E expenditures.

The provision would be effective for amounts paid or incurred in tax years beginning after 2014, but would be phased in slowly over several years. For tax years beginning in 2015, a taxpayer could expense 60 percent and amortize 40 percent over two years; for tax years beginning in 2016 and 2017, a taxpayer could expense 40 percent and amortize 60 percent over three years; and for tax years beginning in 2018, 2019, and 2020, a taxpayer could expense 20 percent and amortize 80 percent over four years. When adding together, the percentage that is permitted to be expensed in any particular year and the amortized percentages from prior years that are also available as a deduction in that particular year, the effect of this formula is to permit a deduction of at least 80 percent of the amount that is deductible under current law (assuming constant levels of annual investment). Alternatively, a taxpayer may elect to apply the five-year amortization rule to all R&E expenditures immediately.

Considerations:

- In general, the cost of assets that have a useful life beyond the tax year must be recovered over the useful life of the asset. The provision recognizes that research and experimentation has a useful life beyond the tax year in which the expenses are incurred.
- In particular, the tangible and intangible property created through research and experimentation provide value to a business beyond a single tax year.

JCT estimate: According to JCT, the provision would increase revenues by \$192.6 billion over 2014-2023.

Sec. 3109. Repeal of deductions for soil and water conservation expenditures and endangered species recovery expenditures.

Current law: Under current law, a taxpayer engaged in the business of farming may deduct immediately, rather than recover over time through annual depreciation deductions, costs paid or incurred during the tax year for the purpose of soil or water conservation in respect of land used in farming, for the prevention of erosion of land used in farming, or for endangered species recovery. Such expenditures are allowed as a deduction, not to exceed 25 percent of the gross income derived from farming during the tax year, with any excess amount carried over to a succeeding year subject to the same percentage limitations.

Provision: Under the provision, the special deduction for soil and water conservation and for the prevention of erosion in land used in farming and endangered species recovery would be

repealed. Accordingly, such costs would be capitalized in the basis of the underlying property. The provision would be effective for amounts paid or incurred after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.8 billion over 2014-2023.

Sec. 3110. Amortization of certain advertising expenses.

Current law: Under current law, a deduction is allowed for ordinary and necessary expenses paid or incurred in carrying on any trade or business. However, expenditures that create a long-term benefit generally must be capitalized and recovered through depreciation or amortization, rather than deducted currently. Although advertising expenditures are not addressed specifically in the Code, the IRS generally allows taxpayers to treat advertising expenditures as an ordinary and necessary business expense. In addition, a special regulatory exception applies to amounts paid to develop a package design. This includes the design of shapes, colors, words, pictures, lettering, and other elements on a given product package or the design of a container to hold a given product. Even though such design cost may have a useful life beyond the current tax year, current regulations permit taxpayers to deduct such costs in the year incurred.

Provision: Under the provision, 50 percent of certain advertising expenses would be currently deductible and 50 percent would be amortized ratably over a ten-year period. This rule would phase in for tax years beginning before 2018 as follows: for tax years beginning in 2015, 80 percent of advertising costs would be deductible and 20 percent amortized; in 2016, 70 percent of advertising costs would be deductible and 30 percent amortized; and in 2017, 60 percent of advertising costs would be deductible and 40 percent amortized. The provision would also permit taxpayers to expense the first \$1,000,000 of advertising expenditures. However, the \$1,000,000 would be reduced to the extent a taxpayer's advertising costs exceed \$1,500,000, and completely phased out once advertising costs exceed \$2,000,000. All of these thresholds would be adjusted for inflation.

Advertising expenses would include any amount paid or incurred for development, production, or placement (including any form of transmission, broadcast, publication, display, or distribution) of any communication to the general public intended to promote the taxpayer's trade or business (including any service, facility, or product provided pursuant to such trade or business). In addition, advertising expenses would include wages paid to employees primarily engaged in activities related to advertising and the direct supervision of employees engaged in such activities. Advertising expenses, however, would not include: depreciable property, amortizable section 197 intangibles, discounts, certain communications on the taxpayer's property, the creation of logos (and trade names), marketing research, business meals, and qualified sponsorship payments.

Under the provision, no deduction of unamortized expenses would be allowed if any property with respect to which amortizable advertising expenses are paid or incurred is retired or abandoned during the 10-year amortization period.

Under the provision, the regulatory exception permitting the immediate deduction of packaging-design costs would be repealed, and such costs would be capitalized into the cost of producing the packaging and recovered as the packaging (and products the packaging contains) are sold.

The provision would be effective for amounts paid or incurred in tax years beginning after 2014.

Considerations:

- In general, the cost of assets that have a useful life beyond the tax year must be recovered over the useful life of the asset. The provision recognizes that a portion of advertising has a useful life beyond the tax year in which the expenses are incurred because a portion of advertising creates long-lived intangible assets such as brand awareness and customer loyalty, the benefits of which inure to the company for many years after the taxpayer incurs the expense.
- The Supreme Court has noted that “a taxpayer’s realization of benefits beyond the year in which [an] expenditure is incurred is undeniably important in determining whether the appropriate tax treatment is immediate deduction or capitalization.”

JCT estimate: According to JCT, the provision would increase revenues by \$169.0 billion over 2014-2023.

Sec. 3111. Expensing certain depreciable business assets for small business.

Current law: Under current law, a taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. Under Code section 179, a taxpayer may deduct immediately (“expense”) the cost of investments in property, equipment, and computer software rather than depreciating such costs over the recovery period of such property under the Code. For 2008 and 2009, taxpayers could expense up to \$250,000 of qualifying property, reduced proportionately to the extent that the taxpayer placed in service more than \$800,000 of qualifying property. From 2010 through 2013, the expensing limitation was \$500,000 and phase-out threshold was \$2 million. For tax years after 2013, the expensing limitation under Code section 179 drops to \$25,000, and the phase-out begins once investments exceed \$200,000. Computer software and certain types of real property (qualifying leasehold improvements, investments in restaurant property, and improvements to retail property) were eligible for expensing if placed in service before 2014. However, the amount of real property that could be expensed was limited to \$250,000. Investments in air conditioning and heating units do not qualify for expensing.

Provision: Under the provision, Code section 179 expensing would be made permanent at the 2008-2009 levels. Taxpayers would be able to expense up to \$250,000 of investments in new equipment and property per year, with the deduction phased out for investments exceeding \$800,000 (with both amounts indexed for inflation). The provision would also restore and make permanent rules allowing computer software and certain investments in real property to qualify for section 179 expensing. In addition, the provision would allow investments in air conditioning and heating units to qualify for section 179 expensing. The provision would be effective for tax years beginning after 2013.

Considerations:

- Starting in 2014, the expensing levels are now \$25,000 and \$200,000, respectively, a significant reduction from the 2013 levels for small businesses and farms that have struggled through the economic challenges of the past six years to build their businesses and hire new employees.
- By making permanent the current-law provisions allowing computer software and certain investments in real property to qualify for section 179 expensing, this provision would significantly expand the pool of eligible assets.

JCT estimate: According to JCT, the provision would reduce revenues by \$54.9 billion over 2014-2023.

Sec. 3112. Repeal of election to expense certain refineries.

Current law: Under current law, a taxpayer could elect to expense 50 percent of the cost of any qualified property used for processing liquid fuel from crude oil or qualified fuels prior to 2014. The remaining 50 percent was recovered under normal depreciation rules. Qualified refinery property included assets located in the United States and used in the refining of liquid fuels. The expensing election expired for property placed in service after 2013.

Provision: Under the provision, the deduction would be repealed. The provision would be effective for property placed in service after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3113. Repeal of deduction for energy efficient commercial buildings.

Current law: Under current law, a taxpayer could claim a deduction with respect to certain energy-efficient commercial building property expenditures incurred prior to 2014. The deduction was limited to an amount equal to \$1.80 per square foot of the property for which such expenditures were made. The deduction was allowed in the year in which the property was placed in service. The deduction expired at the end of 2013.

Provision: Under the provision, the deduction would be repealed. The provision would be effective for property placed in service after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3114. Repeal of election to expense advanced mine safety equipment.

Current law: Under current law, a taxpayer could deduct immediately, rather than recover through annual depreciation deductions, 50 percent of the cost of any qualified advanced mine

safety equipment property that was placed in service before 2014. The deduction expired at the end of 2013.

Provision: Under the provision, the special rule for immediately deducting 50 percent of the cost of advanced mine safety equipment would be repealed. The provision would be effective for property placed in service after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3115. Repeal of deduction for expenditures by farmers for fertilizer, etc.

Current law: Under current law, a taxpayer engaged in the business of farming may elect to deduct immediately expenditures for fertilizer, lime, ground limestone, marl, or other materials to enrich, neutralize, or condition land used in farming.

Provision: Under the provision, the special rule for deducting expenditures for fertilizer and other farming-related materials would be repealed. The provision would be effective for expenses paid or incurred in tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$3.4 billion over 2014-2023.

Sec. 3116. Repeal of special treatment of certain qualified film and television productions.

Current law: Under current law, a taxpayer could elect to deduct immediately the cost of a qualifying film and television production (up to a maximum deduction of \$15 million), commencing prior to 2014, rather than capitalizing and recovering the costs through depreciation deductions generally in relation to the forecasted income from the production. The threshold was increased to \$20 million if a significant amount of the production expenditures were incurred in certain low-income, distressed or isolated areas in the United States.

Provision: Under the provision, the special rule allowing an immediate deduction of qualifying film and television production costs would be repealed. The provision would be effective for productions commencing after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3117. Repeal of special rules for recoveries of damages of antitrust violations, etc.

Current law: Under current law, a taxpayer who recovers damages from certain antitrust violations, patent infringements, or breaches of contract or fiduciary duty and includes the damages in income, may claim a special deduction intended to offset any losses relating to such antitrust violation, etc. that did not result in a tax benefit to the taxpayer. This rule, enacted in

1969, addressed cases in which a taxpayer did not have sufficient income to offset the losses resulting from the antitrust violation in the year the loss occurred or could not carryover such losses to the year in which the litigation damages were recovered due to the limitations on net operating loss carryovers (NOLs), which varied between five and seven years until 1981. Under current law, NOLs may be carried forward for 20 years.

Provision: Under the provision, the special deduction for antitrust violations would be repealed. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 3118. Treatment of reforestation expenditures.

Current law: Under current law, costs incurred to improve property used in a trade or business generally must be capitalized and recovered through depreciation deductions over the useful life of the property. A taxpayer, however, may elect to amortize reforestation expenditures over 84 months (i.e., seven years). In addition, a taxpayer may also elect to deduct up to \$10,000 of certain reforestation expenditures that otherwise would be capitalized. To the extent that reforestation expenditures exceed the \$10,000 limit, a taxpayer may elect to amortize the remaining expenditures over 84 months. The special rule applies to property in the United States that generally contains any type of trees in significant commercial quantities and that is held by the taxpayer for planting, cultivating, caring for and cutting of trees for sale or use in the commercial production of timber products.

Provision: Under the provision, the election to deduct up to \$10,000 for reforestation expenditures would be repealed. For purposes of the 84-month amortization election, the provision would limit the definition of qualifying timber property to U.S. property that (1) contains evergreen trees in commercial quantities that are reasonably expected to be cut down after they are more than six years old, and (2) is held for the planting, cultivating, caring for, and cutting of such trees for ornamental purposes. The provision would be effective for expenditures paid or incurred in tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.4 billion over 2014-2023.

Sec. 3119. 20-year amortization of goodwill and certain other intangibles.

Current law: Under current law, when a taxpayer acquires intangible assets held in connection with a trade or business, any value properly attributable to such intangible assets is amortizable on a straight-line basis over 15 years. For these purposes, intangible assets generally include: goodwill; going-concern value; workforce in place; business books and records; any patent, copyright, formula, process, design, pattern, know-how, or similar item; any franchise, trademark or trade name; customer- and supplier-based intangibles; any license, permit, or other rights

granted by governmental units; and any other similar item. Certain assets are excluded from the rule, such as mortgage servicing rights, which are amortizable over nine years.

Provision: Under the provision, the amortization period for acquired intangible assets would be extended to 20 years. The provision also would treat mortgage servicing rights as intangible assets subject to amortization over 20 years. The provision would be effective for property acquired after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$13.0 billion over 2014-2023.

Sec. 3120. Treatment of environmental remediation costs.

Current law: Under current law, taxpayers generally must capitalize amounts paid or incurred for permanent improvements or betterments made to increase the value of any property used in carrying on any trade or business. Thus, environmental remediation costs relating to the abatement or control of hazardous substances at a qualified contaminated site are capitalized into the cost of the land and recovered only when the land is sold. Prior to 2012, taxpayers could elect to treat environmental expenditures as deductible in the year paid.

Provision: Under the provision, environmental remediation costs would be recovered ratably over 40 years beginning with the midpoint of the tax year in which the expenditures are paid or incurred. The provision would be effective for expenditures paid or incurred after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 3121. Repeal of expensing of qualified disaster expenses.

Current law: Under current law, taxpayers generally must capitalize amounts paid or incurred to acquire property or for permanent improvements or betterments made to increase the value of any property used in carrying on any trade or business. A special rule permitted taxpayers to deduct qualified disaster expenses in 2008 and 2009 relating to Hurricane Katrina and the Gulf Opportunity Zone.

Provision: Under the provision, the special rule for expensing certain disaster expenses would be repealed as obsolete. The provision would be effective for amounts paid or incurred after 2014.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3122. Phaseout and repeal of deduction for income attributable to domestic production activities.

Current law: Under current law, taxpayers may claim a deduction equal to 9 percent (6 percent in the case of certain oil and gas activities) of the lesser of the taxpayer's qualified production activities income or the taxpayer's taxable income for the tax year. The deduction is limited to 50 percent of the W-2 wages paid by the taxpayer during the calendar year. Qualified production activities income is equal to domestic production gross receipts less the cost of goods sold and expenses properly allocable to such receipts. Qualifying receipts are derived from property that was manufactured, produced, grown, or extracted within the United States; qualified film productions; production of electricity, natural gas, or potable water; construction activities performed in the United States; and certain engineering or architectural services. Qualifying receipts do not include gross receipts derived from the sale of food or beverages prepared at a retail establishment; the transmission or distribution of electricity, gas, and potable water; or the disposition of land.

Provision: Under the provision, the deduction for domestic production activities would be phased out, with the deduction reduced to 6 percent for tax years beginning in 2015 and 3 percent for tax years beginning in 2016. The deduction would be repealed for tax years beginning after 2016.

JCT estimate: According to JCT, the provision would increase revenues by \$115.8 billion over 2014-2023.

Sec. 3123. Unification of deduction for organizational expenditures.

Current law: Under current law, new businesses may deduct up to \$5,000 of start-up expenses (i.e., costs incurred prior to the commencement of the business' operation). The deduction phases out to the extent that start-up expenses exceed \$50,000. Start-up expenses that do not qualify for the deduction may be amortized over 15 years. Partnerships and C corporations also may deduct up to \$5,000 of organizational expenses (i.e., expenses relating to the commencement of the business). The additional deduction phases out to the extent organizational expenses exceed \$50,000, with excess expenses amortized over a 15-year period.

Provision: Under the provision, the various existing provisions for start-up and organizational expenses would be combined into a single provision applicable to all businesses. The provision would allow a taxpayer to deduct up to \$10,000 in start-up and organizational costs, with a phase-out beginning at \$60,000. The additional deduction for organizational expenses incurred by a partnership or C corporation would be repealed. Expenses above the new increased limit would continue to be deductible over the 15-year period following the start of the business. The provision would be effective for expenses paid or incurred in tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by \$0.6 billion over 2014-2023.

Sec. 3124. Prevention of arbitrage of deductible interest expense and tax-exempt interest income.

Current law: Under current law, taxpayers may not deduct interest on indebtedness incurred to purchase or carry obligations if the interest income from the obligations is exempt from tax (tax-exempt obligations). The rule is intended to prevent taxpayers from engaging in tax arbitrage by deducting interest on indebtedness used to purchase tax-exempt obligations. There are two methods for determining the amount of the disallowance: The first method, which applies to all taxpayers other than financial institutions or dealers in tax-exempt obligations, asks whether a taxpayer's borrowing can be traced to its holding of tax-exempt obligations and disallows an interest deduction for that portion used to purchase the tax-exempt obligations. The second method, which applies to financial institutions and dealers in exempt obligations, disallows interest deductions based on the percentage of the taxpayer's assets comprised of tax-exempt obligations. Under the second method, a special rule excludes certain qualified small issuer tax-exempt obligations from the pro rata disallowance rule; instead, 20 percent of the interest allocable to such obligations is disallowed.

Under current law, individuals may not deduct investment interest in excess of net investment income. Investment interest generally is the interest paid or accrued on indebtedness with respect to property held for investment, excluding home-mortgage interest. Property considered held for investment currently does not include property that generates tax-exempt interest. Disallowed investment interest deductions may be carried over to the succeeding tax year.

Provision: Under the provision, C corporations, including financial institutions and dealers in tax-exempt obligations, would be required to use the same interest-disallowance method. Thus, the interest deduction of any taxpayer would be disallowed based on the percentage of the taxpayer's assets comprised of tax-exempt obligations. The special rule under present law for qualified small issuer tax-exempt obligations also would be repealed.

The provision also would permanently disallow the investment-interest deduction of a taxpayer (other than a corporation or financial institution) by the amount of tax-exempt interest received. Any remaining interest deduction would still be limited to the taxpayer's net investment income.

The provision relating to the interest-disallowance method would be effective for tax years ending after and obligations issued after February 26, 2014. The provision relating to the investment-interest deduction would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.6 billion over 2014-2023.

Sec. 3125. Prevention of transfer of certain losses from tax indifferent parties.

Current law: Under current law, a deduction is generally disallowed for a loss on the sale or exchange of property to certain related parties or controlled partnerships. If a loss has been disallowed in such a case, the transferee generally may reduce any gain later recognized on a

disposition of the asset by the amount of loss disallowed to the transferor. In effect, this rule has the effect of shifting the benefit of the loss from the transferor to the transferee. Special rules apply in the case of transfers of property within a controlled group of businesses.

Provision: Under the provision, the related-party loss rules would be modified to prevent losses from being shifted from a tax-indifferent party (e.g., a foreign person not subject to U.S. tax) to another party in whose hands any gain or loss with respect to the property would be subject to U.S. tax. The provision would be effective for sales and exchanges after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.7 billion over 2014-2023.

Sec. 3126. Entertainment, etc. expenses.

Current law: Under current law, no deduction is allowed for expenses relating to entertainment, amusement or recreation activities, or facilities (including membership dues with respect to such activities or facilities), unless the taxpayer establishes that the item was directly related to the active conduct of the taxpayer's trade or business, in which case the taxpayer may deduct up to 50 percent of expenses relating to meals and entertainment. An item is considered directly related if it is associated with a substantial and bona fide business discussion.

A taxpayer also may deduct the cost of certain fringe benefits provided to employees (e.g., employee discounts, working condition and transportation fringe benefits), even though such benefits are excluded from the employee's income under Code section 132. Additionally, a taxpayer may deduct expenses for goods, services, and facilities to the extent that the expenses are reported by the taxpayer as compensation and wages to an employee (or includible in gross income of a recipient who is not an employee).

A taxpayer may deduct certain reimbursed expenses, including reimbursement arrangements in which an employer reimburses the expenses incurred by employees of a subcontractor, provided such expenses are properly substantiated and not treated as income to the employee.

Provision: Under the provision, no deduction would be allowed for entertainment, amusement or recreation activities, facilities or membership dues relating to such activities or other social purposes. In addition, no deduction would be allowed for transportation fringe benefits or for amenities provided to an employee that are primarily personal in nature and that involve property or services not directly related to the employer's trade or business, except to the extent that such benefits are treated as taxable compensation to an employee (or includible in gross income of a recipient who is not an employee). The 50-percent limitation under current law also would apply only to expenses for food or beverages and to qualifying business meals under the provision, with no deduction allowed for other entertainment expenses. Furthermore, no deduction would be allowed for reimbursed entertainment expenses paid as part of a reimbursement arrangement that involves a tax-indifferent party such as a foreign person or an entity exempt from tax. The provision would be effective for amounts paid or incurred after 2014.

Considerations:

- It is difficult for the IRS to determine whether entertainment expenses are directly related to a trade or business, creating uncertainty for taxpayers as well as the potential for significant abuse.
- The provision aligns the treatment of transportation fringe benefits and amenities provided to an employee that are primarily personal in nature and not directly related to a trade or business with other similar tax items.

JCT estimate: According to JCT, the provision would increase revenues by \$14.7 billion over 2014-2023.

Sec. 3127. Repeal of limitation on corporate acquisition indebtedness.

Current law: Under current law, a corporation's interest deduction may be limited if it issues debt as consideration for the acquisition of stock in another corporation or for the acquisition of assets of another corporation. However, there are several exceptions to this general rule.

Provision: Under the provision, the interest-limitation rule for debt issued with respect to corporate acquisitions would be repealed. The provision would be effective for interest paid or incurred with respect to indebtedness incurred after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by \$0.1 billion over 2014-2023.

Sec. 3128. Denial of deductions and credits for expenditures in illegal businesses.

Current law: Under current law, no deduction or credit is allowed for an amount paid or incurred in carrying on a trade or business if the activities of the business consist of trafficking in controlled substances that are prohibited by Federal law or the State law in which the business is conducted. Current law, however, does not generally deny deductions or credits to illegal businesses, generally, however.

Provision: Under the provision, the rule denying deductions and credits would be expanded to include any trade or business if carrying out such business is a felony under Federal law or the law of any State in which the business is conducted. The provision would be effective for amounts paid or incurred after the date of enactment in tax years ending after the date of enactment.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 3129. Limitation on deduction for FDIC premiums.

Current law: Under current law, amounts paid by insured depository institutions pursuant to an assessment by the Federal Deposit Insurance Corporation (FDIC) to support the Deposit Insurance Fund (DIF) are currently deductible as a trade or business expense.

Provision: Under the provision, a percentage of such assessments would be non-deductible for institutions with total consolidated assets in excess of \$10 billion. The percentage of non-deductible assessments would be equal to the ratio that total consolidated assets in excess of \$10 billion bears to \$40 billion, so that assessments would be completely non-deductible for institutions with total consolidated assets in excess of \$50 billion. The provision would be effective for tax years beginning after 2014.

Consideration: The provision corrects for the fact that, when the FDIC determines the amount of assessments that are necessary to maintain an adequate balance in the DIF, it does so on a pre-tax basis and does not take into account the deductibility of the premium payments. These deductions diminish the General Fund and effectively result in a General Fund transfer to the DIF.

JCT estimate: According to JCT, the provision would increase revenues by \$12.2 billion over 2014-2023.

Sec. 3130. Repeal of percentage depletion.

Current law: Under current law, depletion, like depreciation, is a form of capital cost recovery. In both cases, the taxpayer is allowed a deduction in recognition of the fact that an asset is being expended to produce income. Under the percentage-depletion method, a percentage, varying from 5 percent to 22 percent (generally 15 percent for certain oil and gas properties), of the taxpayer's gross income from a producing property is allowed as a deduction in each tax year. The deduction generally may not exceed 50 percent (100 percent in the case of certain oil and gas properties) of the net income from the property in any year (the "net-income limitation"). Additionally, the percentage depletion deduction for all oil and gas properties may not exceed 65 percent of the taxpayer's overall taxable income for the year. Because percentage depletion, unlike cost depletion, is computed without regard to the taxpayer's basis in the property, cumulative depletion deductions may be greater than the amount expended by the taxpayer to acquire or develop the property.

Provision: Under the provision, the percentage-depletion method would be repealed. The provision would be effective for tax years beginning after 2014.

Consideration: All taxpayers are allowed a depreciation deduction for their assets that are being used to produce income. However, only extractive industries are allowed to recover more than their investment. The provision would create parity among all businesses with respect to recovering costs.

JCT estimate: According to JCT, the provision would increase revenues by \$5.3 billion over 2014-2023.

Sec. 3131. Repeal of passive activity exception for working interests in oil and gas property.

Current law: Under current law, the passive loss rules limit deductions and credits from passive trade or business activities. Deductions attributable to passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income. Deductions and credits that are suspended under these rules are carried forward and treated as deductions and credits from passive activities in subsequent years. The suspended losses from a passive activity are allowed in full when a taxpayer disposes of his entire interest in the passive activity to an unrelated person. Pursuant to a special rule, a passive activity does not include a working interest in any oil or gas property that the taxpayer holds directly or through an entity that does not limit the liability of the taxpayer with respect to the interest. Thus, losses and credits from such interests may be used to offset other income of the taxpayer without limitation under the passive loss rule. This special rule applies without regard to whether the taxpayer materially participates in the activity.

Provision: Under the provision, the passive activity exception for working interests in oil and gas property would be repealed. The provision would be effective for tax years beginning after 2014.

Consideration: Generally, individual taxpayers are not allowed to deduct passive losses against their active or wage income under current law. However, a special rule exists for taxpayers that have an interest in oil and gas property. The provision creates parity among all taxpayers by removing this special exception.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 3132. Repeal of special rules for gain or loss on timber, coal, or domestic iron ore.

Current law: Under current law, a taxpayer may elect to treat the cutting of timber for sale or use in the taxpayer's business as a sale or exchange of such timber cut during the year. A taxpayer that makes the election converts part of the ordinary gain resulting from the sale of the timber into capital gain. To elect this treatment, a taxpayer must have owned the timber or held a contract right to cut the timber for more than a year. Under the election, gain equal to the difference between the adjusted basis of the timber and the fair market value as of the first day of the tax year in which it was cut is treated as capital gain. Any additional gain attributable to the difference between the fair market value of the timber on the first day of the tax year and the proceeds from the sale of products produced from the timber cut (less ordinary and necessary business expenses) is ordinary. A similar election is permitted for the disposal of timber or coal or iron ore mined in the United States held for more than one year before the disposal.

Provision: Under the provision, gain from timber cut by an owner and used in its trade or business, and from the disposal of timber or coal or domestic iron ore held for more than one year before the disposal, would no longer be treated as capital gain. Thus, all gain in these circumstances would be treated as ordinary income. This provision generally would be effective for tax years beginning after 2014.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for sections 1001-1003 of the discussion draft.

Sec. 3133. Repeal of like-kind exchanges.

Current law: Under current law, an exchange of property, like a sale, generally is a taxable transaction. A special rule provides that no gain or loss is recognized to the extent that property held for productive use in the taxpayer's trade or business, or property held for investment purposes, is exchanged for property of a like-kind that also is held for productive use in a trade or business or for investment. The taxpayer receives a basis in the new property equal to the taxpayer's adjusted basis in the exchanged property. The like-kind exchange rule applies to a wide range of property from real estate to tangible personal property. It does not apply, however, to exchanges of stock in trade or other property held primarily for sale, stocks, bonds, partnership interests, certificates of trust or beneficial interest, other securities or evidences of indebtedness or interest, or to certain exchanges involving livestock or involving foreign property. A like-kind exchange does not require that the properties be exchanged simultaneously – as long as the property to be received in the exchange is identified within 45 days and ultimately received within 180 days of the sale of the originally property, gain is deferred.

Provision: Under the provision, the special rule allowing deferral of gain on like-kind exchanges would be repealed. The provision would be effective for transfers after 2014. However, a like-kind exchange would be permitted if a written binding contract is entered into on or before December 31, 2014, and the exchange under the contract is completed before January 1, 2017.

Considerations:

- The like-kind exchange rules currently allow taxpayers to defer tax on the built-in gains in property by exchanging it for similar property. With multiple exchanges, gains essentially may be deferred for decades, and ultimately escape taxation entirely if the property's basis is stepped up to its fair market value upon the death of the owner.
- The current rules have no precise definition of "like-kind," which often leads to controversy with the IRS and provides significant opportunities for abuse.

JCT estimate: According to JCT, the provision would increase revenues by \$40.9 billion over 2014-2023.

Sec. 3134. Restriction on trade or business property treated as similar or related in service to involuntarily converted property in disaster areas.

Current law: Under current law, gain or loss realized from the sale or other disposition of property generally must be recognized at the time of the sale or other disposition. However, a special exception applies to certain involuntary or compulsory conversions of property (e.g., the property's destruction is due to a natural disaster, theft, seizure, requisition or condemnation) and generally permits such property to be replaced within two years with property that is similar or related in service or use to the property converted without recognizing taxable gain. If the trade or business is located in a Federally declared disaster area, any tangible property held for productive use in the trade or business is treated as similar or related in service or use. Thus, a taxpayer could replace lost inventory with a building, and no gain would be recognized.

Provision: Under the provision, tangible business property that is involuntarily converted in a Federally declared disaster area would qualify for deferral of gain recognition only if the depreciation class life of replacement property does not exceed that of the converted property. The provision would be effective for disasters declared after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 3135. Repeal of rollover of publicly traded securities gain into specialized small business investment companies.

Current law: Under current law, gain or loss generally is recognized on any sale, exchange, or other disposition of property. A special rule permits an individual or corporation to roll over without recognition of income any capital gain realized on the sale of publicly traded securities when the proceeds are used to purchase common stock or a partnership interest in a specialized small business investment corporation (SSBIC) within 60 days of the sale of the securities. SSBICs are a special type of investment fund licensed by the U.S. Small Business Administration until 1996 when the program was repealed (though certain existing SSBICs were grandfathered). The amount of gain that a taxpayer may roll over in a tax year is limited to the lesser of (1) \$50,000 (\$250,000 for corporations) or (2) \$500,000 (\$1,000,000 for corporations) reduced by the gain previously excluded under the provision.

Provision: Under the provision, the special rule permitting gains on publicly traded securities to be rolled over to an SSBIC would be repealed. The provision would be effective for sales after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.3 billion over 2014-2023.

Sec. 3136. Termination of special rules for gain from certain small business stock.

Current law: Under current law, a taxpayer (other than a corporation) may exclude 50 percent of the gain from the sale of certain small business stock acquired at original issue and held for at least five years. For stock acquired in 2009 through 2013, the exclusion is 75 percent or 100 percent, depending on the timing of the acquisition. The amount of gain eligible for the exclusion with respect to the stock of any qualifying domestic C corporation is the greater of ten times the taxpayer's basis in the stock or \$10 million (reduced by the amount of gain eligible for exclusion in prior years). To qualify, the small business must have aggregate gross assets of \$50 million or less when the stock is issued and meet certain active trade or business requirements. A taxpayer may elect to roll over gain from the sale of qualified small business stock held more than six months when other qualified small business stock is purchased during the 60-day period beginning on the date of sale.

Provision: Under the provision, the exclusion of gain from the sale of certain small business stock would be repealed. The provision would be effective for gains with respect to stock issued after the date of enactment. For rollover of gains, the provision would not apply to sales of qualifying small business stock acquired before the date of enactment.

Considerations:

- Current law provides this narrow benefit only to investors in small businesses organized as C corporations with tradable stock, thereby favoring investors in those types of businesses over investors in small businesses organized as S corporations, partnerships, or LLCs. Accordingly, the provision repealing this narrow tax benefit would not apply to small businesses organized as pass-through entities.
- The current-law benefit would be repealed in favor of broad-based tax rate reductions, which will help all types of small businesses as well as the individuals who invest in them.

JCT estimate: According to JCT, the provision would increase revenues by \$4.8 billion over 2014-2023.

Sec. 3137. Certain self-created property not treated as a capital asset.

Current law: Under current law, a self-created patent, invention, model or design (whether or not patented), or secret formula or process is treated as a capital asset. However, the following self-created property is not treated as a capital asset: copyrights; literary, musical or artistic compositions; and letters or memoranda. Any gain or loss recognized as a result of the sale, exchange, or other disposition of such property is generally ordinary in character. The creator of musical compositions or copyrights in musical works, however, may elect to treat such property as a capital asset.

Provision: Under the provision, gain or loss from the disposition of a self-created patent, invention, model or design (whether or not patented), or secret formula or process would be ordinary in character. This would be consistent with the treatment of copyrights under current

law. In addition, the election to treat musical works as a capital asset would be repealed. The provision would be effective for sales, exchanges, and other dispositions of such property after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.6 billion over 2014-2023.

Sec. 3138. Repeal of special rule for sale or exchange of patents.

Current law: Under current law, an individual who creates a patent and an unrelated individual who acquires a patent from its creator prior to the actual commercial use of the patent may treat any gains on the transfer of the patent as long-term capital gains. To qualify, a transfer must be of substantially all the rights to the patent (or an undivided interest therein) and cannot be by gift, inheritance or devise.

Provision: Under the provision, the special rule treating the transfer of a patent prior to its commercial exploitation as long-term capital gain would be repealed. The provision would be effective for transfers after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.2 billion over 2014-2023.

Sec. 3139. Depreciation recapture on gain from disposition of certain depreciable realty.

Current law: Under current law, the disposition of most property used in a business on which depreciation deductions were taken results in gain or loss that is treated as ordinary or capital depending on whether there is a net gain or a net loss. A net loss may be deducted fully against ordinary income. A net gain generally results in long-term capital gain treatment, subject to the depreciation recapture rules. The depreciation recapture rules require taxpayers to recognize ordinary income in an amount equal to all or a portion of the gain realized as a result of the basis reduction attributable to accumulated depreciation deductions. For depreciable real property (e.g., buildings or structural components of buildings) held for more than one year, gain is treated as ordinary income, rather than capital gain to the extent that the accelerated depreciation taken with respect to the property exceeds the amount of depreciation that would have been taken had the straight-line method been used. For depreciable real property held for one year or less, all of the depreciation is recaptured. For corporations, the recaptured amount treated as ordinary income generally is increased by an amount equal to 20 percent of all of the depreciation deductions taken with respect to the asset.

Provision: Under the provision, the recapture rules with respect to depreciable real property are revised to limit the amount treated as ordinary income to the lesser of: (1) the difference between the accelerated depreciation and straight-line depreciation attributable to periods before 2015, plus the total amount of depreciation attributable to periods after 2014, or (2) the excess of

the amount realized over the adjusted basis. The provision would be effective for dispositions after 2014.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for sections 1001-1003 of the discussion draft.

Sec. 3140. Common deduction conforming amendments.

Current law: Not applicable.

Provision: Under the provision, a number of conforming changes that are common to various sections in Subtitle B of Title III of the discussion draft would be made. These sections revise or repeal business-related exclusions and deductions. The provision generally would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Subtitle C – Reform of Business Credits

Sec. 3201. Repeal of credit for alcohol, etc., used as fuel.

Current law: Under current law, a taxpayer could claim per-gallon incentives relating to alcohol (including ethanol) and cellulosic biofuels. The ethanol credit expired at the end of 2011. For alcohol other than ethanol, the amount of the credit was 60 cents per gallon, and for ethanol, the credit was 45 cents per gallon, with an extra 10 cents per gallon available for small ethanol producers.

The cellulosic biofuel producer credit was a nonrefundable income tax credit for each gallon of qualified cellulosic fuel produced during the tax year. The amount of the credit per gallon is \$1.01. The credit expired at the end of 2013.

Provision: Under the provision, these fuel tax credits would be repealed. The provision would be effective for fuels sold or used after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3202. Repeal of credit for biodiesel and renewable diesel used as fuel.

Current law: Under current law, the biodiesel fuels credit was the sum of three credits: (1) the biodiesel fuel-mixture credit, (2) the biodiesel credit, and (3) the small agri-biodiesel producer credit. Prior to 2014, a taxpayer could claim a credit of \$1.00 per gallon for producing a biodiesel fuel mixture, biodiesel and renewable diesel. The agri-biodiesel credit was a 10-cents-per-gallon credit for up to 15 million gallons of agri-biodiesel produced by small producers,

defined generally as persons whose agri-biodiesel production capacity did not exceed 60 million gallons per year. The credits expired at the end of 2013.

Provision: Under the provision, these fuel tax credits would be repealed. The provision would be effective for fuels sold or used after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3203. Research credit modified and made permanent.

Current law: Under current law, a taxpayer could claim a credit for qualified, U.S.-based research expenses prior to 2014. The research credit had three components, and in general, the credit was available for incremental increases in qualified research. First, a taxpayer could claim a credit equal to 20 percent of the amount by which the taxpayer's qualified research expenses for a tax year exceeded its base amount for that year. An alternative simplified research credit (ASC) could be claimed in lieu of the basic credit. The ASC was equal to 14 percent of the qualified research expenses for the tax year that exceeded 50 percent of the average qualified research expenses for the three tax years preceding the tax year for which the credit was being determined. Under the ASC, if a taxpayer did not have any qualified research expenses in any of the three preceding tax years, the taxpayer could claim a research credit equal to 6 percent of qualified expenses incurred in the current year.

Second, a taxpayer also could claim a 20-percent credit for amounts paid (including grants or contributions) over a base amount to universities and certain non-profit scientific research organizations for basic research. Third, a 20-percent credit could be claimed for all expenses (without regard to a base amount) paid to an energy-research consortium for research conducted for the taxpayer. The research credit is not available for qualified expenses paid or incurred after 2013.

A taxpayer's qualified research expenses included: (1) in-house expenses for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent (higher in certain cases) of amounts paid or incurred to certain other entities for qualified research conducted on the taxpayer's behalf (contract research expenses).

To be eligible for the credit, qualified research must have been: (1) undertaken for the purpose of discovering information that was technological in nature; (2) the application of which was intended to be useful in the development of a new or improved business component; and (3) substantially all the activities of which constituted elements of a process of experimentation for the functional aspects, performance, reliability, or quality of a business component. In general, computer software developed by a taxpayer primarily for internal use was not qualified research. However, computer software was qualified research if for use in an activity that constituted qualified research, or in a production process that met the requirements for qualified research.

In addition, deductions otherwise allowed a taxpayer (for example for research and development expenses under Code section 174) were reduced by the amount of the taxpayer's research credit

for the tax year. Alternatively, a taxpayer could elect to claim a reduced research credit in lieu of reducing deductions otherwise allowed.

Provision: Under the provision, a modified research credit would be made permanent. The research credit would equal: (1) 15 percent of the qualified research expenses for the tax year that exceed 50 percent of the average qualified research expenses for the three tax years preceding the tax year for which the credit is determined (thus making the ASC permanent), plus (2) 15 percent of the basic research payments for the tax year that exceed 50 percent of the average basic research payments for the three tax years preceding the tax year for which the credit is determined. The provision would retain the rule under the ASC that allows a taxpayer to claim a reduced research credit if the taxpayer has no qualified research expenses in any one of the three preceding tax years. The general 20-percent credit would be repealed, as well as the 20-percent credit for amounts paid for basic research and the 20-percent credit for amounts paid to an energy research consortium.

Under the provision, amounts paid for supplies or with respect to computer software would no longer qualify as qualified research expenses. In addition, the special rule allowing 75 percent of amounts paid to a qualified research consortium and 100 percent of amounts paid to eligible small businesses, universities, and Federal laboratories to qualify as contract research expenses would be repealed (though such amounts still would qualify as contract research expenses subject to the 65-percent inclusion rule).

In addition, the provision would repeal the election to claim a reduced research credit in lieu of reducing deductions otherwise allowed.

The provision would be effective for tax years beginning after 2013, and for amounts paid and incurred after 2013.

Considerations:

- For too long, the research credit has been a temporary measure, even expiring in some years, resulting in significant uncertainty for innovators and reducing the effectiveness of the credit as an incentive. With a permanent research credit, business would have greater certainty when committing to investments in research and development.
- Making the ASC the only method for calculating the credit would ease administrative burdens for taxpayers and the IRS. Doing so would eliminate substantial amounts of recordkeeping, documentation issues, and controversy connected with the historical base-period credit. For example, using only the ASC would eliminate the need to document gross receipts, a key component to the historic base-period credit, and a source of controversy with the IRS.
- Other changes, such as removing the cost of supplies from the credit calculation, would reduce controversy with the IRS.

JCT estimate: According to JCT, the provision would reduce revenues by \$34.1 billion over 2014-2023.

Sec. 3204. Low-income housing tax credit.

Current law: Under current law, owners of certain residential rental property may claim a low-income housing tax credit (LIHTC) over a ten-year period for the cost of rental housing occupied by qualifying low-income tenants. However, rental housing must remain qualified low-income housing for a 15-year compliance period, beginning with the first year of the credit period (even though the credit period is only ten years). The amount of the credit for any tax year in the credit period is the applicable percentage of the qualified basis of each qualified low-income building. The applicable percentage is adjusted monthly by the IRS so that the ten annual installments of the credit have a present value of either 70 percent or 30 percent of the total qualified basis. With certain exceptions, the qualified basis for any tax year equals the eligible basis of the building dedicated to low-income housing, based generally on the number of units or floor space of such units in the building.

In general, buildings subject to the 70-percent rule should yield a 9-percent credit, and buildings subject to the 30-percent rule should yield a 4-percent credit, although the credit amounts depend on the applicable interest rate used for discounting the building's basis for the particular tax year. A temporary provision under current law provided an applicable percentage of 9 percent with respect to the 70-percent rule for newly constructed non-Federally subsidized buildings placed in service before 2014.

Housing that qualifies for the 9-percent credit must be either newly constructed or substantially rehabilitated, and may not be Federally subsidized (including through tax-exempt bond financing). A new building generally is considered Federally subsidized if it also receives tax-exempt bond financing. The 4-percent credit is available, in general, for Federally subsidized buildings and existing housing.

To claim the credit, the owner of a qualified building must receive a housing credit allocation from the State or local housing credit agency. A State's available credit allocation has four components: (1) the State's unused housing amount, if any, from the prior calendar year; (2) the credit amount for the current year; (3) any credits returned to the State during the calendar year from previous allocations; and (4) the State's share, if any, of the national pool of unused credits from other States that failed to use them. Only States that allocated their entire credit authority for the preceding calendar year are eligible for a share of the national pool. For calendar year 2013, each State's credit authority was \$2.25 per resident, with a minimum annual cap of \$2,590,000 for certain small population States. These amounts are indexed for inflation. Certain buildings that also receive financing with proceeds of tax-exempt bonds do not require an allocation to qualify for the LIHTC.

Generally, buildings located in two types of high-cost areas – qualified census tracts and difficult development areas – are eligible for an enhanced credit, under which the applicable basis of the property is increased from 100 percent to 130 percent. In addition, a building designated by a State housing credit agency may qualify if the enhanced credit is required for such building to be financially feasible.

Property subject to the credit generally must continue to be a low-income housing project for a compliance period of 15 years, beginning on the first day of the first tax year in which the credit is claimed. The penalty for any building failing to remain qualified is the recapture of the accelerated portion of the credit, with interest, for all prior years. Generally, a change in ownership of a building is a recapture event, subject to an exception if it can reasonably be expected that the building will continue to be operated as qualified low-income housing for the remainder of the compliance period.

Current law includes a number of other eligibility criteria for the LIHTC. While the residential units in a qualified low-income housing project must be available for use by the general public (e.g., the owner complies with certain housing non-discrimination policies and does not restrict occupancy based on membership in a social organization or employment by specific employers), a project may impose occupancy restrictions or preferences that favor tenants: (1) with special needs; (2) who are members of specified group under a Federal program or State program or policy that supports housing for such a specified group; or (3) who are involved in artistic and literary activities. Additionally, each State must develop a plan for allocating credits, and certain selection criteria must be considered when evaluating projects for credit allocations. The criteria are: (1) project location; (2) housing needs characteristics; (3) project characteristics (including whether the project uses existing housing as part of a community revitalization plan); (4) sponsor characteristics; (5) tenant populations with special needs; (6) tenant populations of individuals with children; (7) projects intended for eventual tenant ownership; (8) the energy efficiency of the project; and (9) the historic nature of the project. The State allocation plan must give preference to housing projects that serve the lowest-income tenants, that are obligated to serve qualified tenants for the longest periods, and that are located in qualified census tracts and the development of which contributes to a concerted community revitalization plan.

Provision: Under the provision, the LIHTC would be modified in several ways.

Allocation of basis: Under the provision, State and local housing authorities would allocate qualified basis, rather than credit amounts. The annual amount of allocable basis for each State would be equal to \$31.20 multiplied by the State's population, with a minimum annual amount of \$36,300,000. The annual amount would continue to include unused basis allocations from the prior year plus basis allocations returned to the State during the calendar year from previous allocations. The national pool of unused credits, however, would be eliminated.

Credit period: Under the provision, the credit period would be extended from 10 years to 15 years to match the current 15-year compliance period. Because the credit period would be aligned with the compliance period, the recapture rules also would be repealed as no longer necessary to ensure that the building continues to be a low-income housing project for the duration of the tax benefit.

Credit amount: Under the provision, the 4-percent credit would be repealed. The 9-percent credit for newly constructed property and substantial rehabilitations would be retained. In addition, Federally funded grants would not be taken into account in determining the eligible basis of a building for purposes of the credit. As a result, the credit would apply to private funding of low-income housing and not provide an additional subsidy for Federal funding of

such projects. The amount of the credit would continue to equal the qualified basis in the qualified low-income building multiplied by the applicable percentage. Under the provision, the IRS would determine the applicable percentage generally for the month that the building is placed in service, which would be equal to the percentage that would yield over a 15-year period a credit amount that would have a present value equal to 70 percent of the qualified basis of the building.

Other changes: Under the provision, several other rules would be modified. First, the increased basis rule for high-cost and difficult development areas would be repealed. Second, the general-public-use requirement would be revised to eliminate the special occupancy preference for members of specific groups under certain Federal or State programs and the special preference for individuals involved in artistic and literary activities. Instead, occupancy preferences would only be permitted for individuals with special needs and for veterans. Third, the provision would repeal the requirement that States include in their low-income-housing selection criteria the energy efficiency of the project and the historic nature of the project.

The provision would be effective for State basis amounts and allocations of such amounts determined for calendar years after 2014. A transition rule would translate credit allocations prior to 2015 into equivalent amounts of eligible basis for purposes of determining new allocations of basis after 2014.

Considerations:

- The LIHTC provides an important private-sector alternative to Federally financed and operated housing for low-income individuals (e.g., Section 8 housing).
- According to the non-partisan Joint Committee on Taxation (JCT), the provision would increase the amount of LIHTC-financed projects by more than 5 percent in 2015 (from \$9.3 billion to \$9.8 billion), while reducing the cost to taxpayers.
- By modernizing the credit, the provision would provide a more transparent benefit by permitting States to allocate the basis that supports low-income housing units.
- The provision also would align the credit period with the current 15-year compliance period to ensure that the housing project continues to meet its low-income purpose for the duration of the tax benefit.
- The provision would simplify the current credit, which is the longest section of the Code today, by streamlining many complex provisions and eliminating several special rules.

JCT estimate: According to JCT, the provision would increase revenues by \$10.7 billion over 2014-2023.

Sec. 3205. Repeal of enhanced oil recovery credit.

Current law: Under current law, taxpayers may claim a credit equal to 15 percent of enhanced oil recovery (EOR) costs. The EOR credit is ratably reduced over a \$6 phase-out range when the reference price for domestic crude oil exceeds \$28 per barrel (adjusted for inflation after 1991). The EOR credit currently is phased-out based on the current price of a barrel of oil.

Provision: Under the provision, the enhanced oil recovery credit would be repealed. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3206. Phaseout and repeal of credit for electricity produced from certain renewable resources.

Current law: Under current law, a taxpayer may claim a credit (the production tax credit or PTC) is allowed for the production of electricity from qualified energy resources. Qualified energy resources are comprised of wind, closed-loop biomass, open-loop biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower production, and marine and hydrokinetic renewable energy. To be eligible for the PTC, electricity produced from qualified energy resources at qualified facilities must be sold by the taxpayer to an unrelated person. The base amount of the PTC is 1.5 cents (indexed annually for inflation) per kilowatt-hour of electricity produced. The amount of the credit is generally 2.3 cents per kilowatt-hour for 2013. A taxpayer generally may claim a credit every year during a 10-year period for projects that begin construction before 2014.

Provision: Under the provision, the inflation adjustment would be repealed, effective for electricity and refined coal produced or sold after 2014. Therefore, taxpayers' credit amount would revert to 1.5 cents per kilowatt-hour for the remaining portion of the 10-year period. The entire production tax credit would be repealed, effective for electricity and refined coal produced and sold after 2024.

Consideration: Businesses in the wind industry have represented to the Committee that the industry could survive with a credit worth 60 percent of the current credit, implying that the credit provides a windfall that does not serve the intended policy.

JCT estimate: According to JCT, the provision would increase revenues by \$9.6 billion over 2014-2023.

Sec. 3207. Repeal of Indian employment credit.

Current law: Under current law, a taxpayer could claim a credit equal to 20 percent of qualifying wages and health insurance costs (up to \$20,000, for a maximum credit amount of \$4,000) paid prior to 2014 to enrolled members of an Indian tribe (or spouses) living on or near an Indian reservation for services performed on a reservation. The credit was limited to employees earning wages of \$45,000 or less. The credit expired for tax years beginning after 2013.

Provision: Under the provision, the Indian employment credit would be repealed. The provision would be effective for tax years beginning after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3208. Repeal of credit for portion of employer Social Security taxes paid with respect to employee cash tips.

Current law: Under current law, an employer may claim an income tax credit equal to its share of FICA taxes attributable to tips received from customers in connection with the provision of food or beverages if tipping is customary. The credit is available only to the extent such tips exceed the amount of tips that the employer uses to meet the minimum wage requirements for the employee under the Fair Labor Standards Act. An employer may not claim a deduction for any amount taken into account in determining the credit.

Provision: Under the provision, the tip credit would be repealed. The provision would be effective for tips received for services performed after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$10.1 billion over 2014-2023.

Sec. 3209. Repeal of credit for clinical testing expenses for certain drugs for rare diseases or conditions.

Current law: Under current law, a taxpayer may claim a credit equal to 50 percent of qualified clinical testing expenses incurred in testing certain drugs for rare diseases or conditions, often referred to as “orphan drugs.” Expenses taking into account for purposes of the orphan drug credit do not qualify for the general research credit.

Provision: Under the provision, the tax credit for orphan drugs would be repealed. The provision would be effective for amounts paid or incurred in tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$9.1 billion over 2014-2023.

Sec. 3210. Repeal of credit for small employer pension plan startup costs.

Current law: Under current law, a taxpayer may claim a credit to help offset the start-up costs associated with a small employer pension plan. The credit is only available for the first three years of the plan and is limited to the lesser of \$500 per year or 50 percent of the start-up costs for a qualified plan under Code section 401(a), an annuity plan under Code section 403(a), a Simplified Employee Pension (SEP) plan, or a SIMPLE retirement plan.

Provision: Under the provision, the credit for small employer pension plan start-up costs would be repealed. The provision would be effective for costs paid or incurred after 2014 with respect to qualified employer plans first effective after such date.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 3211. Repeal of employer-provided child care credit.

Current law: Under current law, an employer may claim a credit equal to 25 percent of qualified expenses for employee child care and 10 percent of qualified expenses for child-care resource and referral services. The credit is limited to \$150,000 per tax year.

Provision: Under the provision, the credit for employer-provided child care would be repealed. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.2 billion over 2014-2023.

Sec. 3212. Repeal of railroad track maintenance credit.

Current law: Under current law, an eligible taxpayer could claim a credit equal to 50 percent of qualified railroad track maintenance expenditures paid or incurred in a tax year prior to 2014. The credit generally was limited to \$3,500 multiplied by the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of its tax year. The credit expired at the end of 2013.

Provision: Under the provision, the railroad track maintenance credit would be repealed. The provision would be effective for tax years beginning after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3213. Repeal of credit for production of low sulfur diesel fuel.

Current law: Under current law, a small business refiner may claim, with respect to expenses paid or incurred before 2010, a credit of 5 cents per gallon for each gallon of low sulfur diesel fuel produced during the tax year. The total production credit claimed by the taxpayer was limited to 25 percent of the qualified costs incurred to come into compliance with the EPA diesel fuel requirements. The credit for low sulfur diesel fuel expired at the end of 2009.

Provision: Under the provision, the credit would be repealed. The provision would be effective for expenses paid or incurred in tax years after 2014.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3214. Repeal of credit for producing oil and gas from marginal wells.

Current law: Under current law, producers may claim a \$3-per-barrel credit (adjusted for inflation) for the production of crude oil and a 50-cents-per-1,000-cubic-feet credit (also adjusted for inflation) for the production of qualified natural gas. In both cases, the credit is available only for domestic production. The credit is not available for production if the reference price of oil exceeds \$18 (\$2 for natural gas). The credit is reduced proportionately for reference prices between \$15 and \$18 (\$1.67 and \$2 for natural gas). Currently, the credit is phased out completely based on the current price of a barrel of oil.

Provision: Under the provision, the credit would be repealed. The provision would be effective for tax years after 2014.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3215. Repeal of credit for production from advanced nuclear power facilities.

Current law: Under current law, a taxpayer producing electricity at a qualifying advanced nuclear power facility may claim a credit equal to 1.8 cents per kilowatt-hour of electricity produced for the eight-year period starting when the facility is placed in service.

Provision: Under the provision, the credit would be repealed. The provision would be effective for electricity produced and sold after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.6 billion over 2014-2023.

Sec. 3216. Repeal of credit for producing fuel from a nonconventional source.

Current law: Under current law, a taxpayer producing coke and coke gas in the United States at qualified facilities and sold to unrelated parties could claim a credit equal to \$3 (generally adjusted for inflation) per Btu oil barrel equivalent. The credit for fuel from a non-conventional source expired at the end of 2009.

Provision: Under the provision, the credit would be repealed. The provision would be effective for fuel produced and sold after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3217. Repeal of new energy efficient home credit.

Current law: Under current law, an eligible contractor could claim the new energy-efficient home credit for the construction of a qualified new energy-efficient home prior to 2014. The

credit was equal to either \$1,000 or \$2,000, depending on whether it met the 30-percent or 50-percent standard as prescribed by the IRS to achieve either a 30-percent or 50-percent reduction in heating and cooling energy consumption compared to a comparable dwelling constructed in accordance with the standards of chapter 4 of the 2006 International Energy Conservation Code. The credit expired at the end of 2013.

Provision: Under the provision, the credit would be repealed. The provision would be effective for homes acquired after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3218. Repeal of energy efficient appliance credit.

Current law: Under current law, a taxpayer could claim a credit for the production of certain energy-efficient dishwashers, clothes washers, and refrigerators prior to 2014. The amount of the credit varied for each appliance depending on when the appliance was manufactured and how much energy or water it saved. The credit expired at the end of 2013.

Provision: Under the provision, the credit would be repealed. The provision would be effective for appliances produced after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3219. Repeal of mine rescue team training credit.

Current law: Under current law, a taxpayer could claim a credit with respect to employees serving on a mine-rescue team prior to 2014. The credit was equal to the lesser of 20 percent of the taxpayer's mine-rescue training program costs (including the wages of the employee while attending the program) or \$10,000. The credit expired at the end of 2013.

Provision: Under the provision, the mine rescue team training credit would be repealed. The provision would be effective for tax years beginning after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3220. Repeal of agricultural chemicals security credit.

Current law: Under current law, a taxpayer could claim a credit equal to 30 percent of certain chemical security expenditures incurred by qualifying agricultural businesses prior to 2013. The credit was limited to \$100,000 per facility, reduced by the amount of credits claimed in the prior five years, and a taxpayer's annual credit amount was limited to \$2 million. The credit is not available for expenses incurred after 2012.

Provision: Under the provision, the agricultural chemicals security credit would be repealed. The provision would be effective for amounts paid or incurred after 2012.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3221. Repeal of credit for carbon dioxide sequestration.

Current law: Under current law, a taxpayer may claim a credit of \$20 per metric ton for qualified carbon dioxide captured by the taxpayer at a qualified facility and disposed of by such taxpayer in secure geological storage (\$10 per metric ton if used by such taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project). Both credit amounts are adjusted for inflation after 2009.

Provision: Under the provision, the carbon dioxide sequestration credit would be repealed. The provision would be effective for credits determined for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.1 billion over 2014-2023.

Sec. 3222. Repeal of credit for employee health insurance expenses of small employers.

Current law: Under current law, a qualified small business employer may claim a credit for up to two years if the small business pays at least half of its employees' health insurance premiums. For tax years 2010 to 2013, the maximum credit is 35 percent of premiums paid by eligible small businesses and 25 percent of premiums paid by eligible tax-exempt organizations. Beginning in 2014, the maximum tax credit will increase to 50 percent of premiums paid by eligible small business employers and 35 percent of premiums paid by eligible tax-exempt organizations, but the credit will only be available for health insurance coverage purchased through a State exchange. A qualified small business employer generally is an employer with no more than 25 full-time equivalent employees (FTEs) during the tax year, with annual full-time equivalent wages averaging no more than \$50,000 (indexed for inflation beginning in 2014). The full amount of the credit is available only to an employer with 10 or fewer FTEs and whose employees have average annual full-time equivalent wages of less than \$25,000 (indexed for inflation beginning in 2014). Tax-exempt organizations generally may apply the credit against the organization's payroll tax liability.

Provision: Under the provision, the credit for employee health insurance expenses of small employers would be repealed. The provision would be effective for amounts paid or incurred for tax years beginning after 2014.

Considerations:

- Enacted as part of the Affordable Care Act (ACA), this credit is overly complex, narrow in its application, and short-lived – in contrast to the permanent insurance expenses that employers are required to incur under the ACA.
- As a result, very few small businesses have opted to claim the benefit and a number of small business advocacy groups have expressed concern over its complexity and narrow application.

JCT estimate: According to JCT, the provision would increase revenues by \$11.1 billion over 2014-2023 and would reduce outlays by \$1.1 billion over 2014-2023.

Sec. 3223. Repeal of rehabilitation credit.

Current law: Under current law, a taxpayer may claim a credit for expenses incurred to rehabilitate old and/or historic buildings. A 20-percent credit is allowed for qualified rehabilitation expenditures with respect to a certified historic structure, while a 10-percent credit is allowed for qualified rehabilitation expenditures with respect to a qualified rehabilitated building. To qualify for the 10-percent credit, the rehabilitation expenditures during the 24-month period selected by the taxpayer and ending within the tax year must exceed the greater of the adjusted basis of the building (and its structural components) or \$5,000.

Provision: Under the provision, the rehabilitation credit would be repealed. The provision would be effective for amounts paid after 2014. Under a transition rule, the credit would continue to apply to expenditures incurred through the end of 2016, to rehabilitate a qualified rehabilitated building or a certified historic structure acquired before 2015. However, for a qualified rehabilitated building, the 24-month rehabilitation period for claiming the credit must also begin on or before January 1, 2015.

JCT estimate: According to JCT, the provision would increase revenues by \$10.5 billion over 2014-2023.

Sec. 3224. Repeal of energy credit.

Current law: Under current law, taxpayers may claim up to a 30-percent nonrefundable, business energy credit for the cost of certain new equipment that either (1) uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) is used to produce, distribute, or use energy derived from a geothermal deposit (but only, in the case of electricity generated by geothermal power, up to the electric transmission stage). Property used to generate energy for the purposes of heating a swimming pool is not eligible solar energy property. The credit expires at the end of 2016.

Provision: Under the provision, the credit would be repealed. The provision is effective for property placed in service after 2016.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3225. Repeal of qualifying advanced coal project credit.

Current law: Under current law, a taxpayer may claim an investment tax credit for power generation projects that use integrated gasification combined cycle (IGCC) or other advanced coal-based electricity generation technologies. Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy.

Provision: Under the provision, the credit would be repealed. The provision would be effective for allocations and reallocations after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.9 billion over 2014-2023.

Sec. 3226. Repeal of qualifying gasification project credit.

Current law: Under current law, a taxpayer may claim an investment credit for certain qualifying gasification projects. Only property that is part of a qualifying gasification project and necessary for the gasification technology of such project is eligible for the gasification credit. The maximum amount of credits allocated under the program may not exceed \$600 million.

Provision: Under the provision, the credit would be repealed. The provision would be effective for allocations and reallocations after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.3 billion over 2014-2023.

Sec. 3227. Repeal of qualifying advanced energy project credit.

Current law: Under current law, a 30-percent credit is available for investments in certain property used in a qualified advanced energy manufacturing project. A qualified advanced energy project is a project that re-equips, expands, or establishes a manufacturing facility for certain specified green energy uses. Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy. The maximum amount of credit allocated under the program may not exceed \$2.3 billion.

Provision: Under the provision, the credit would be repealed. The provision would be effective for allocations and reallocations after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.3 billion over 2014-2023.

Sec. 3228. Repeal of qualifying therapeutic discovery project credit.

Current law: Under current law, a taxpayer could claim a credit equal to 50 percent of its investments in qualifying therapeutic discovery projects in 2009 and 2010. Under the program, the IRS, in consultation with the Secretary of HHS, awarded certifications for qualified investments.

Provision: Under the provision, the credit for therapeutic discovery projects would be repealed. The provision would be effective for allocations and reallocations after 2014.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3229. Repeal of work opportunity tax credit.

Current law: Under current law, an employer could claim the work opportunity tax credit if it hired individuals from one or more of nine targeted groups prior to 2014. An employer calculated the credit based on the amount of qualified wages paid to the employee. Generally, qualified wages consisted of wages attributable to services rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. The credit is not available for wages paid or incurred after 2013.

Provision: Under the provision, the work opportunity tax credit would be repealed. The provision would be effective for wages paid or incurred to individuals who begin work after 2013.

Consideration: Under the now-expired WOTC, it often has not been possible for an employer to determine whether an individual is eligible for the credit until well after that individual has been hired and certified by the appropriate State agencies. This fact calls into serious question whether the WOTC encourages the hiring of individuals from the favored groups. Nevertheless, the WOTC has been shown to result in significant compliance costs for employers.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3230. Repeal of deduction for certain unused business credits.

Current law: Under current law, a taxpayer may carry unused business credits may be carried back one year and carried forward 20 years. However, a taxpayer generally may deduct unused credits after the end of the carryforward period or when a business ceases to exist.

Provision: Under the provision, the deduction for general business credits unused after 20 years would be repealed. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Subtitle D – Accounting Methods

Sec. 3301. Limitation on use of cash method of accounting.

Current law: Under current law, taxpayers using the cash method of accounting (“cash method”) generally recognize income when actually or constructively received and expenses when paid. Taxpayers using an accrual method of accounting (“accrual method”) generally accrue income when all the events have occurred that fix the right to receive the income and the amount of the income can be determined with reasonable accuracy. Taxpayers using an accrual method generally may not deduct expenses before all events have occurred that fix the obligation to pay the liability, the amount of the liability can be determined with reasonable accuracy, and economic performance has occurred.

Current law includes an array of rules for determining whether a taxpayer may use the cash method, with different kinds of businesses subject to different sets of rules. For example, a C corporation or a partnership that has a C corporation as a partner generally may use the cash method only if its average annual gross receipts are \$5 million or less. A corporation or a partnership with a corporate partner engaged in farming generally may only use a cash method of accounting if its average annual gross receipts are \$1 million or less (\$25 million or less for family farm corporations). Sole proprietors and qualified personal service corporations (i.e., corporations that primarily perform services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and that are owned by individuals performing such services) are allowed to use the cash method without regard to their average annual gross receipts. Additionally, a business generally must use an accrual method of accounting if it has inventory.

Provision: Under the provision, businesses with average annual gross receipts of \$10 million or less may use the cash method of accounting; whereas businesses with more than \$10 million would be required to use accrual accounting. The provision would not apply to farming businesses, which would continue to be subject to current-law accounting rules. Sole proprietors also would continue to be able to use the cash method regardless of the level of gross receipts. The provision would be effective for tax years beginning after 2014. A taxpayer generally would be permitted to include any positive adjustments to income resulting from the provision over a four-year period beginning with its first tax year beginning after 2018 in the following amounts: 10 percent included in the first year (2019); 15 percent in the second year (2020); 25 percent in the third year (2021); and 50 percent in the fourth year (2022). At the election of the taxpayer, the four-year inclusion of the adjustment could begin prior to 2019.

Considerations:

- Current law contains an array of complicated tax accounting rules and disjointed thresholds for small businesses to determine which method of accounting – the cash method or accrual method – they may use for tax purposes. The provision simplifies and harmonizes this area of law for many businesses.
- For many small businesses, the cash method is simpler and follows more closely the cash flows of their income and expenses. On the other hand, the accrual method provides a

more accurate reflection of income. The provision strikes a balance between these two objectives that respects small businesses' need for simplicity.

JCT estimate: According to JCT, the provisions would increase revenues by \$23.6 billion over 2014-2023.

Sec. 3302. Rules for determining whether taxpayer has adopted a method of accounting.

Current law: Under current law, a taxpayer's method of accounting used to compute taxable income must clearly reflect income. A taxpayer generally must secure the consent of the IRS Commissioner before changing a method of accounting for Federal income tax purposes. Current law does not provide rules for determining whether a taxpayer has adopted a method of accounting. The IRS takes the position that if a taxpayer treats an item properly in the first return that reflects the item, the taxpayer has adopted a method of accounting. Similarly, under IRS guidance, when a taxpayer treats an item in the same erroneous manner on two consecutive returns, a taxpayer also has adopted a method of accounting (and any change would require the consent of the Commissioner).

Provision: Under the provision, the IRS guidance with respect to determining whether a taxpayer has adopted a method of accounting would be codified. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 3303. Certain special rules for taxable year of inclusion.

Current law: Under current law, a taxpayer is required to include any item of income in the taxpayer's gross income in the year in which the income is received, unless the taxpayer's method of accounting used to compute taxable income permits inclusion in a different period. There are, however, numerous exceptions to this rule. For example, cash and accrual method taxpayers that receive advance payments for certain goods or services may elect to defer inclusion of the income for up to two years. Cash method taxpayers who receive insurance proceeds or Federal disaster payments as a result of destruction or damage to crops may elect to defer inclusion of such proceeds in income until the following tax year. Similarly, a cash method taxpayer may defer until the following tax year income resulting from the sale or exchange of livestock if the taxpayer demonstrates that such sales would not have occurred under his normal business practices if it were not for drought, flood, or other weather-related conditions occurring in a Federally declared disaster area. Another special exception applies to utility companies required to sell electric transmission property to an independent transmission company prior to January 1, 2008 (January 1, 2014, in the case of a qualified electric utility) to implement certain Federal and State electric-restructuring policy. Under the exception, the utility companies that use the accrual method of accounting could elect to recognize gain from the sale or exchange of

qualifying transmission property ratably over an eight-year period if the proceeds are used to purchase approved reinvestment property.

Provision: Under the provision, a taxpayer on the accrual method of accounting for tax purposes would be required to include an item of income no later than the tax year in which such item is included for financial statement purposes. The provision also would provide that cash and accrual method taxpayers may defer the inclusion of advance payments for certain goods and services in income for tax purposes up to one year (but not longer than any deferral for financial statement purposes). Additionally, the provision would repeal (1) the exceptions for crop insurance proceeds and disaster payments (for destruction and damage to crops and natural disasters occurring after 2014), (2) the special exception for livestock sales (for sales and exchanges after 2014), and (3) the special exception for utility-restructuring transactions (for sales and dispositions after 2013). Except as noted, the provision would be effective for tax years beginning after 2014, with any adjustments resulting from accounting-method changes taken into account over the four years following the effective date.

JCT estimate: According to JCT, the provision would increase revenues by \$10.4 billion over 2014-2023.

Sec. 3304. Installment sales.

Current law: Under current law, a taxpayer generally may use the installment method to defer inclusion of amounts that are to be received from the disposition of certain types of property until payment in cash is received, with the gain from the disposition spread over the series of payments. Dealers in property may not use the installment method, except for sales of farm property, timeshares, and residential lots. Taxpayers with large installment sales are subject to an interest charge on the tax deferral to the extent that the taxpayer's aggregate installment sales exceed \$5 million. In determining the \$5 million limitation, the taxpayer includes only installment sales of more than \$150,000 arising during and remaining outstanding at the close of any tax year. The interest charge rules do not apply to sales by dealers of farm property, and special interest charges apply to sales by dealers of timeshares and residential lots.

Provision: Under the provision, the interest charge rules would apply to any installment sale in excess of \$150,000, provided the obligation remains outstanding at the end of the tax year, eliminating the aggregate \$5 million limitation. The provision also would repeal the exceptions and special rules for sales of farm property, timeshares, and residential lots. The provision would be effective for sales and other dispositions after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.1 billion over 2014-2023.

Secs. 3305-3306. Repeal of special rule for prepaid subscription income; Repeal of special rule for prepaid dues income of certain membership organizations.

Current law: Under current law, a special rule permits prepaid income from a newspaper, magazine or other periodical subscription to be deferred until the year in which the taxpayer provides the periodical even if such time is more than a year in the future. A similar rule permits a membership organization to defer prepaid dues income until the year in which the organization provides the services or other membership privileges for which the dues were prepaid.

Provision: Under the provision, the special rules for prepaid subscription income and prepaid membership dues would be repealed. Taxpayers would still be able to defer the inclusion of advanced payments until the following tax year (as provided in section 3303 of the discussion draft). The provision would be effective for payments received after 2014.

JCT estimate: According to JCT, the provisions would increase revenues by \$0.4 billion over 2014-2023.

Sec. 3307. Repeal of special rule for magazines, paperbacks, and records returned after close of the taxable year.

Current law: Under current law, sales of merchandise by a taxpayer on the accrual method of accounting generally must be included in income in the tax year when all events have occurred that fix the right to receive the income and the amount can be determined with reasonable accuracy. In cases where merchandise is returned for a credit or refund, the reduction in income generally must be recognized in the tax year in which the merchandise return occurs. A special rule permits taxpayers to elect to exclude from gross income sales of any magazine or other periodical, paperback book, or record (including discs, tapes, etc.) that is returned within two-and-a-half months (for magazines) or four-and-a-half months (in the case of paperbacks and records) after the close of the tax year in which the item was sold.

Provision: Under the provision, the special rule for magazines, paperbacks, and records returned after close of the tax year would be repealed. The provision would be effective for tax years beginning after 2014, with any adjustments resulting from accounting-method changes taken into account over the four years following the effective date.

JCT estimate: According to JCT, the provision would increase revenues by \$0.2 billion over 2014-2023.

Sec. 3308. Modification of rules for long-term contracts.

Current law: Under current law, a taxpayer that produces property pursuant to a long-term contract must determine the taxable income from the contract under the percentage-of-completion method (PCM), which generally requires the taxpayer to include in gross income the portion of the contract price equal to the percentage of the contract completed during the year.

There is an exception for certain home construction contracts and for other contracts estimated to be completed within two years by taxpayers with average gross receipts of \$10 million or less over a three-year period. Taxpayers qualifying for either exception may use the completed-contract method, under which income is generally not included until the contract is completed. Special rules apply to certain construction contracts for multi-unit housing (i.e., more than four dwelling units) under which taxpayers generally may treat 70 percent of the construction contract under PCM and 30 percent under the completed-contract method. Similarly, taxpayers with certain ship-building contracts may elect a blended approach, with 40 percent of the contract treated under PCM and 60 percent under the completed-contract method.

Provision: Under the provision, the completed-contract method would be limited to contracts estimated to be completed within two years for taxpayers with average gross receipts of \$10 million or less over a three-year period. The provision also would repeal the special exceptions to the PCM rules for multi-unit housing contracts and ship-building contracts. The provision would be effective for contracts entered into after 2014.

Considerations:

- Current law generally requires large construction companies with long-term contracts to use the PCM, under which revenues and expenses are matched in the applicable accounting period based on the extent to which the contract has been completed.
- The completed-contract method was intended to be a simplified method for small contractors and home builders. The exception, however, is not limited to small businesses in the case of home builders, which enables some very large construction companies to avoid the more appropriate matching principles under the PCM.
- The provision would modify the completed-contract method to apply simply to small business construction contractors.

JCT estimate: According to JCT, the provision would increase revenues by \$6.5 billion over 2014-2023.

Sec. 3309. Nuclear decommissioning reserve funds.

Current law: Under current law, a taxpayer responsible for decommissioning a nuclear power plant may establish a nuclear decommissioning reserve fund to resolve certain tort liabilities. The income of a nuclear decommissioning reserve fund is taxed at a reduced rate of 20 percent. Contributions to nuclear decommissioning reserve funds are generally deductible by an accrual method taxpayer in the tax year such contributions are made, even though the fund will not perform its obligation to pay the beneficiaries or fund the costs of decommissioning the nuclear plant until a subsequent tax year. Contributions to a nuclear decommissioning reserve fund may be returned to the contributing company provided such returned funds are included in income.

Provision: Under the provision, the special 20-percent tax rate for nuclear decommissioning reserve funds would be repealed, and the tax rate generally applicable to corporations would apply. For distributions by a nuclear decommissioning reserve fund that are used for non-qualified purposes (e.g., return of funds to the contributing company), the provision would

require the contributing taxpayer to include the balance of the fund in income in the tax year of the distribution. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.2 billion over 2014-2023.

Sec. 3310. Repeal of last-in, first-out method of inventory.

Current law: Under current law, a taxpayer must account for inventories if the production, purchase, or sale of merchandise is a material income-producing factor in the taxpayer's trade or business. There are two primary inventory accounting methods: last-in, first-out (LIFO) and first-in, first-out (FIFO). Under the LIFO inventory accounting method, it is assumed that the last item entered into the inventory is the first item sold. Accordingly, the taxpayer's cost of goods sold is valued at the most recent costs, and any effects of cost fluctuations are reflected in the ending inventory, which is valued at historical costs rather than the most recent costs. A taxpayer may only use the LIFO method for tax purposes, however, if it reports income for financial statement purposes using the LIFO method. Under the FIFO inventory accounting method, it is assumed that the first item entered into inventory is the first item sold. Thus, ending inventory is valued at its most recent costs rather than at historical costs. Taxpayers that use LIFO are required to calculate and track their LIFO reserves, which is the difference between the accounting cost of inventory calculated using the FIFO method and the same inventory using the LIFO method. The LIFO reserve is the deferred taxable income that results from using the most recent inventory costs to calculate cost of goods sold, rather than the lower cost associated with historic inventory, and under certain circumstances (e.g., sales exceed purchases, dissolution or sale of the business), the deferred income is realized by the taxpayer and is thus subject to tax.

Provision: Under the provision, the LIFO inventory accounting method would no longer be permitted. Thus, taxpayers could use FIFO or any other method that conforms to the best accounting practice in a particular trade or business and clearly reflects income. A taxpayer would include its LIFO reserve in income over a four-year period beginning with its first tax year beginning after 2018 in the following amounts: 10 percent included in the first year (2019); 15 percent in the second year (2020); 25 percent in the third year (2021); and 50 percent in the fourth year (2022). Taxpayers could elect to begin the four-year inclusion period in an earlier tax year. Closely held entities – generally defined as having no more than 100 owners as of February 26, 2014 (using rules similar to those used for S corporations and taking indirect ownership into account) – would be subject to a reduced 7-percent tax rate on their LIFO reserves. The provision would apply to tax years beginning after 2014.

Considerations:

- The LIFO reserve is an integral component of the LIFO method of accounting. When a taxpayer chooses the LIFO method of accounting, they accept that the deferred tax liability will have to be recognized at some point. This provision is not a retroactive tax increase, but merely triggers the deferred tax liability inherent to the LIFO inventory accounting method.

- The provision provides a significant transition rule for all taxpayers, large and small, to permit them to delay the inclusion of any LIFO reserves until 2019 and then slowly take such reserves into account over a four-year period.
- Additionally, because the repeal of the LIFO method and the inclusion of the LIFO reserve in income could have a substantial effect on cash flow for small and family-owned businesses, the provision provides that LIFO reserves of closely held businesses would be subject to a reduced tax rate of 7 percent. This transition rule should provide critical relief to small businesses in numerous industries across the country.

JCT estimate: According to JCT, the provision would increase revenues by \$79.1 billion over 2014-2023.

Sec. 3311. Repeal of lower of cost or market method of inventory.

Current law: Under current law, for Federal income tax purposes, taxpayers generally must account for inventories if the production, purchase, or sale of merchandise is a material income-producing factor to the taxpayer. Because of the difficulty of accounting for inventory on an item-by-item basis, taxpayers often use conventions that assume certain item or cost flows. Among these conventions are the “first-in, first-out” (FIFO) method, which assumes that the items in ending inventory are those most recently acquired by the taxpayer. Taxpayers that maintain inventories under the FIFO method may determine the value of ending inventory under the “lower of cost or market” (LCM) method. Under the LCM method, the taxpayer may write down the value of ending inventory (and thus take a deduction for the amount of the write-down) if its market value is less than its cost. Additionally, under the LCM method, subnormal goods (e.g., goods that are unsalable at normal prices or in the normal way because of damage, imperfections, shop wear, changes of style, odd or broken lots, or similar causes) may be written down to the net selling price.

Provision: Under the provision, the lower-of-cost-or-market method would be repealed. The provision would be effective for tax years beginning after 2014. A taxpayer generally would include any positive adjustments to income resulting from the provision over a four-year period beginning with its first tax year beginning after 2018 in the following amounts: 10 percent included in the first year (2019); 15 percent in the second year (2020); 25 percent in the third year (2021); and 50 percent in the fourth year (2022). At the election of the taxpayer, the four-year inclusion of the adjustment could begin prior to 2019.

Considerations:

- The LCM rule is a special accounting rule that allows qualifying businesses to write down certain inventory to a value that is less than what the business paid. This special rule allows the business to reduce its taxable income by the write-down amount, even though no realization event has occurred (i.e., the item remains in inventory).
- If inventory is written down under LCM, there is no symmetrical requirement that it be written up should its value increase before it is sold. In that sense, LCM is a one-sided bet: “heads the taxpayer wins; tails the taxpayer ties.”

JCT estimate: According to JCT, the provision would increase revenues by \$3.8 billion over 2014-2023.

Sec. 3312. Modification of rules for capitalization and inclusion in inventory costs of certain expenses.

Current law: Under current law, the uniform capitalization (UNICAP) rules require certain direct costs (e.g., materials and labor) and indirect costs (e.g., overhead and administrative expenses) allocable to real or tangible personal property produced by the taxpayer to be capitalized into the basis of such property or included in inventory, as applicable. For real or personal property acquired by the taxpayer for resale, the UNICAP rules generally require direct and indirect costs allocable to such property to be included in inventory. However, the UNICAP rules do not apply to timber and certain trees; free-lance authors, photographers and artists; and businesses with \$10 million or less of average annual gross receipts that acquire property for resale.

Provision: Under the provision, the exception to the UNICAP rules for businesses with average annual gross receipts of \$10 million or less that acquire property for resale would be expanded to include all types of property (e.g., real property and tangible personal property), whether produced or acquired by the taxpayer. The provision would repeal the special exceptions for timber and certain trees, and for free-lance authors, photographers and artists. The provision's expanded exemption from the UNICAP rules for qualifying businesses, however, would apply in these cases. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by \$4.5 billion over 2014-2023.

Sec. 3313. Modification of income forecast method.

Current law: Under current law, the cost of motion picture films, sound recordings, copyrights, books, and patents may be recovered using the income-forecast method (IFM). The property's depreciation deduction for a tax year is determined by multiplying the adjusted basis of the property by a fraction equal to the gross income generated by the property during the year over the total estimated gross income anticipated by the close of the tenth tax year after the property is placed in service. A look-back rule requires a recomputation of the forecast based on actual income earned in connection with the property before the end of the third and tenth years, with interest applicable to any adjustment. Any costs that are not recovered by the end of the tenth tax year may be deducted in that year.

In determining the adjusted basis of property under the IFM, taxpayers may only include amounts when economic performance has occurred (e.g., the property is delivered or service is performed). A special exception under the IFM applies to participations and residuals (e.g., amounts under a film or recording contract that vary according the earnings), which may be included in the basis if they are paid with respect to income to be derived from the property

before the close of the tenth year. Alternatively, a taxpayer may deduct those payments as they are paid.

Under Treasury regulations, the cost of intangible assets may be recovered over the useful life of the asset, if such life can be determined with reasonable accuracy. If the useful life cannot be estimated with reasonable accuracy or a specific recovery period is not assigned to the property, a taxpayer may elect to treat the intangible as having a useful life of 15 years.

Provision: Under the provision, the forecast period under the IFM would be extended to 20 years, with required computations based on the income earned before the close of the fifth, tenth, fifteenth and twentieth years. The provision also would modify the rule for participations and residuals by excluding such costs from the adjusted basis of the property under the IFM and require that such costs be deducted in the year paid. As an alternative to the IFM, the provision would permit taxpayers to depreciate property otherwise qualifying for the IFM under the straight-line method over a 20-year period. Finally, the provision would direct the IRS to revise the election under the regulations concerning intangible assets with an unknown useful life to conform to the new 20-year period for the IFM. The provision generally would be effective for property placed in service after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.5 billion over 2014-2023.

Sec. 3314. Repeal of averaging for farm income.

Current law: Under current law, an individual engaged in certain farming or fishing businesses may elect to compute his current year tax liability by averaging, over the prior three-year period, all or a portion of his taxable income from the trade or business of farming or fishing.

Provision: Under the provision, the farm income-averaging method would be repealed. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.3 billion over 2014-2023.

Sec. 3315. Treatment of patent or trademark infringement awards.

Current law: Under current law, the Code does not provide rules regarding the treatment of patent or trademark infringement awards. The courts have held that such infringement awards constitute ordinary income as damages relating to lost profits unless the taxpayer can demonstrate that such payments reflect damages relating to impairment of capital (e.g., goodwill), in which case the payments are treated as a return of capital to the extent of the taxpayer's basis in the patent or trademark.

Provision: Under the provision, the judicial standard for determining the treatment of patent or trademark infringement awards would be codified. The provision would be effective for payments pursuant to judgments and settlements after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 3316. Repeal of redundant rules with respect to carrying charges.

Current law: Under current law, a taxpayer may elect to capitalize certain taxes and carrying charges (e.g., interest) with respect to certain property, and in such a case no deduction is permitted for the capitalized costs. This provision is redundant because other provisions of the Code permit taxes and carrying charges to be capitalized, even though such costs are otherwise deductible.

Provision: Under the provision, the redundant rules with respect to capitalization of certain taxes and carrying charges would be repealed. The provision would be effective for amounts paid or incurred after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 3317. Repeal of recurring item exception for spudding of oil or gas wells.

Current law: Under current law, an accrual-method taxpayer generally may deduct an expense only when all events have occurred that fix the fact of the liability, the amount of the liability is determinable with reasonable accuracy, and economic performance has occurred. An exception applies to certain expenses that are recurring in nature (e.g., State and local income taxes that are fixed at year-end but generally not paid until the tax return is filed in the following year), which is commonly referred to as the “recurring item” exception. To qualify, the expense must be paid no later than eight and a half months after the close of the tax year to which it relates. The recurring-item exception is not available for a tax shelter, unless the tax shelter involves drilling oil or gas wells and the drilling commences within 90 days of the close of the tax year to which the expense relate.

Provision: Under the provision, the special exception for oil or gas well tax shelters would be repealed, and the recurring item exception would not apply to any associated drilling expenses. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.2 billion over 2014-2023.

Subtitle E – Financial Instruments

Part 1 – Derivatives and Hedges

Sec. 3401. Treatment of certain derivatives.

Current law: Under current law, the tax treatment of gains and losses from entering into derivative financial transactions (e.g., futures, forward contracts, swaps, and options) is highly dependent upon the type of derivative, the profile of the taxpayer (e.g., dealers vs. non-dealers), and other factors. For example, gain or loss from entering into an option generally is not recognized until the option is exercised or lapses, and the character of the gain or loss generally is determined based upon the character of the optioned property in the hands of the taxpayer. However, certain options that are traded on exchanges – non-equity options (i.e., options on property other than stock or on an index) and dealer equity options – are marked to market (meaning that changes in the value of such options that are outstanding at the end of the tax year result in taxable gain or loss), and gain or loss on such options are treated as 60-percent long-term capital gain or loss and 40-percent short-term capital gain or loss.

Provision: Under the provision, derivative financial transactions generally would be marked to market at the end of each tax year, and any gains or losses from marking a derivative to market would be treated as ordinary income or loss. The provision would not apply to transactions that are properly identified as hedging transactions for tax purposes. The provision also would not apply to transactions that require the physical delivery of commodities or to certain specified transactions that are commercial (as opposed to financial) or non-speculative in nature. For offsetting financial positions that include at least one derivative position, all positions in the straddle would be marked to market. The provision would be effective for tax years ending after 2014, in the case of property acquired and positions established after 2014, and for tax years ending after 2019, in the case of any other property or position.

Considerations:

- The current-law tax treatment of gains and losses from entering into derivative transactions (e.g., futures, forward contracts, swaps, and options) is highly dependent upon the type of derivative, the profile of the taxpayer, and other factors, which can result in very different tax consequences for economically similar transactions.
- The provision would level the playing field by updating antiquated tax rules that have not kept pace with innovation in the financial products market, and by creating a more uniform and transparent tax treatment of financial products, so that all taxpayers are playing by the same rules.

JCT estimate: According to JCT, the provision would increase revenues by \$15.7 billion over 2014-2023.

Sec. 3402. Modification of certain rules related to hedges.

Current law: Under current law, taxpayers are permitted to match the timing and character of taxable gains and losses on certain hedging transactions with the gains and losses associated with the price, currency or interest rate risk being hedged. Taxpayers are only allowed such hedging tax treatment, however, if they properly identify the transaction as a hedge on the day they enter into the transaction, regardless of whether the taxpayer is properly treating the transaction as a hedge for financial accounting purposes. In addition, hedging tax treatment is available only if the risk being hedged relates to ordinary property held (or to be held) by the taxpayer or obligations incurred (or to be incurred) by the taxpayer. In practice, insurance companies typically acquire debt instruments of varying durations to hedge risks associated with holding assets that are used to honor future claims arising from insurance policies that they have written. The tax treatment of these transactions under the current-law hedging rules is unclear, however, because the assets held by the insurance companies are capital assets, rather than ordinary property.

Provision: Under the provision, taxpayers could rely upon – for tax purposes – an identification of a transaction as a hedge that they have made for financial accounting purposes. The provision also would modify the hedging tax rules so that the rules would apply when an insurance company acquires a debt instrument to hedge risks relating to assets that support the company’s ability to honor future insurance claims. The provision would be effective for hedging transactions entered into after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Part 2 – Treatment of Debt Instruments

Sec. 3411. Current inclusion in income of market discount.

Current law: Under current law, when a borrower issues debt at a discount (i.e., the loan proceeds are less than the principal amount to be repaid), the borrower and the lender are required to deduct and include in income, respectively, the discount as additional interest over the life of the loan. When a bond that already has been issued by the borrower is subsequently purchased on the secondary market at a discount, the purchaser is required to include the discount in taxable income as additional interest but, unlike discount when a loan is initially made, this discount does not have to be included by the purchaser of the bond until the bond is retired or the purchaser resells the bond. The amount of secondary market discount that holders must include in taxable income appears to include discount associated with deterioration in the creditworthiness of the borrower, even though it may have been intended that current law should only apply to discount associated with increases in interest rates.

Provision: Under the provision, purchasers of bonds at a discount on the secondary market would be required to include the discount in taxable income over the post-purchase life of the bond, rather than only upon retirement of the bond or resale of the bond by the purchaser. Any

loss that results from the retirement or resale of such a bond would be treated as an ordinary (rather than capital) loss to the extent of previously accrued market discount.

The provision also would limit taxable secondary market discount to an amount that approximates increases in interest rates since the loan was originally made. Specifically, the provision would limit this amount to the greater of (1) the original yield on the bond plus 5 percentage points, or (2) the applicable Federal rate plus 10 percentage points.

The provision would be effective for bonds acquired after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.9 billion over 2014-2023.

Sec. 3412. Treatment of certain exchanges of debt instruments.

Current law: Under current law, when the terms of an outstanding debt instrument are significantly modified, the issue price of the modified debt instrument (i.e., the principal amount of the debt instrument for tax purposes) does not necessarily equal the issue price of the debt instrument prior to modification. In particular, the issue price of the modified debt instrument can be substantially lower than the issue price of the debt instrument prior to modification if the debt instrument has lost significant value since the loan was originally made (e.g., the value of real estate or other collateral supporting the loan has declined) – even if the lender has not forgiven any actual principal owed by the borrower. The reduction in the issue price resulting from the modification of the debt instrument constitutes taxable cancellation of indebtedness income to the borrower, although the borrower still owes the same actual principal amount as was owed prior to the modification. Conversely, the holder of a modified debt instrument may be required to recognize taxable gain as a result of modifying the debt instrument – even when the actual principal owed by the borrower has not increased – if the holder purchased the debt instrument at a discount.

Provision: Under the provision, the issue price of a modified debt instrument generally would be equal to the lesser of (1) the issue price of the debt instrument before it was modified, or (2) the stated principal amount of the modified debt instrument (assuming the modified debt instrument has an adequate rate of stated interest). In addition, the holder of a debt instrument generally would not recognize taxable gain or loss as a result of modifying a debt instrument. The provision would be effective for debt modifications that occur after 2014.

Considerations:

- The current law tax treatment of gains can impose prohibitive tax burdens on taxpayers who try to maintain or sell distressed assets by restructuring the debt that is secured by the assets – a process necessary to economic recovery.
- The provision would reform the tax rules as they apply to debt restructurings that do not involve a forgiveness of principal, and would reduce the prevalence of “phantom” cancellation-of-indebtedness income when debt is restructured – a common practice during economic downturns.

JCT estimate: According to JCT, the provision would reduce revenues by \$0.8 billion over 2014-2023.

Sec. 3413. Coordination with rules for inclusion not later than for financial accounting purposes.

Current law: Under current law, the holder of a debt instrument that is issued with original issue discount (OID) generally accrues and includes in income (as interest) the OID over the life of the obligation, regardless of when the OID income actually is received. In the case of prepaid interest, OID treatment results in a deferral of taxable income. Certain fees earned by credit card issuers and other financial institutions have been treated as OID income, which allows these institutions to postpone the imposition of tax on this income to later tax years.

Provision: Under the provision, fees and other amounts received by a taxpayer would not be treated as OID income to the extent they are subject to section 3303 of the discussion draft, which would require taxpayers on the accrual method of accounting to include an item of income no later than the tax year in which such item is included for financial statement purposes. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$9.5 billion over 2014-2023.

Sec. 3414. Rules regarding certain government debt.

Current law: Under current law, individuals and other taxpayers who use a cash basis method of accounting and who purchase non-interest bearing obligations at a discount may elect to include in current income the increase in the value of the obligations as the discount accretes. (Absent such an election, the increase in value is not taken into income until maturity or disposition of the obligation.) In addition, discount on certain short-term obligations (e.g., Treasury bills) does not accrue until the obligation is paid at maturity or otherwise disposed but, in the case of taxpayers using an accrual method of accounting and certain other taxpayers, discount on short-term obligations is required to be included currently in taxable income. Also, any increase in the redemption value of a U.S. savings bond generally is includible in gross income in the tax year the bond is redeemed or the tax year of final maturity, whichever is earlier. Finally, U.S. obligations may be exchanged without recognition of gain or loss.

Provision: Under the provision, certain clerical amendments to the current-law rules would be made to reflect that some of the rules have been superseded by subsequently enacted tax rules relating to the accrual of original issue discount. Similarly, the current-law rule that permits U.S. obligations to be exchanged without recognition of gain or loss would be repealed because the rule has become obsolete as a result of the Treasury Department no longer issuing Series H or HH savings bonds (which were exchangeable for Series E or EE savings bonds). The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Part 3 – Certain Rules for Determining Gain and Loss

Sec. 3421. Cost basis of specified securities determined without regard to identification.

Current law: Under current law, when a taxpayer purchases shares of a particular company (or other substantially identical securities) at multiple times and at different prices, and later sells some (but not all) of these shares, the shares generally are deemed to have been sold on a first-in, first-out (FIFO) basis. In other words, the earliest acquired shares are treated as having been sold for purposes of determining the taxpayer's basis in the sold shares (and resulting gain or loss from the sale). Taxpayers, however, may specifically identify which shares have been sold, and such shares could have a basis that is different from the basis in the earliest acquired shares (and thus result in a different amount of gain or loss from the sale).

Provision: Under the provision, taxpayers who sell a portion of their holdings in substantially identical stock generally would be required to determine their taxable gain or loss on a FIFO basis. The provision generally would be coordinated with the recently enacted basis reporting requirements so that taxpayers could continue to determine basis in their stock on an account-by-account basis, except that multiple accounts with the same broker would be aggregated and treated as a single account. The provision would be effective for sales of stock occurring after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$3.8 billion over 2014-2023.

Sec. 3422. Wash sales by related parties.

Current law: Under current law, a taxpayer may not deduct losses from the disposition of stock or securities if the taxpayer acquires substantially identical stock or securities during the period beginning 30 days before, and ending 30 days after, the date of sale. If a loss is disallowed, the basis of the acquired stock or securities is increased to reflect the disallowed loss.

Provision: Under the provision, losses from the disposition of stock or securities also would be disallowed if certain parties that are closely related to the taxpayer acquire substantially identical stock or securities within 30 days before or after the disposition. If a loss has been disallowed under the provision and the taxpayer reacquires substantially identical stock or securities during the period that begins 30 days before the disposition and ends with the close of the first tax year that begins after the disposition, then the basis of the reacquired stock or securities would be increased to reflect the disallowed loss. The provision would be effective for sales of stock or securities occurring after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 3423. Nonrecognition for derivative transactions by a corporation with respect to its stock.

Current law: Under current law, a corporation does not recognize gain or loss on the receipt of money or other property in exchange for its own stock. Likewise, a corporation does not recognize gain or loss when it redeems its stock with cash for more or less than it received when the stock was issued. In addition, a corporation does not recognize gain or loss on any lapse or acquisition of an option to buy or sell its stock.

Provision: Under the provision, a corporation generally would not recognize income, gains, losses, or deductions with respect to derivatives that relate to the corporation's own stock, except for certain transactions that involve the corporation acquiring its own stock and entering into a forward contract with respect to its own stock. In conjunction with section 3101 of the discussion draft, the provision would require a corporation to recognize income to the extent that the receipt of a contribution of money or property exceeds the value of stock issued in exchange for such money or property, and also would require a corporation to recognize income from the receipt of any premium received with respect to an option on its own stock. The provision would be effective for transactions entered into after the date of enactment.

JCT estimate: According to JCT, the provision would increase revenues by \$0.2 billion over 2014-2023.

Part 4 – Tax Favored Bonds

Secs. 3431-3432. Termination of private activity bonds; Termination of credit for interest on certain home mortgages.

Current law: Under current law, interest on both governmental bonds and private activity bonds (PABs) is excluded from gross income (and thus exempt from tax). Governmental bonds typically are issued to finance projects that constitute public goods (e.g., roads, schools, and parks). By contrast, the proceeds of PABs finance the activities of, or loans to, private parties, with indirect benefits accruing to the State or locality that issues the bond. The exclusion of interest on PABs generally is disallowed under the alternative minimum tax (AMT), meaning that AMT payers pay tax on such interest. Only specific categories of PABs qualify for the tax preference. Those categories include exempt facility bonds, qualified mortgage bonds, qualified veterans' mortgage bonds, qualified small issue bonds, qualified student loan bonds, qualified redevelopment bonds, and qualified 501(c)(3) bonds. Most PABs are subject to a single, aggregate national volume cap that is allocated annually among States by population, while other PABs have separate volume caps. For calendar year 2014, the per-State volume cap is the greater of (1) \$100 multiplied by the State population, or (2) \$296,825,000. These amounts are indexed for inflation.

Some State and local governments issue PABs to finance owner-occupied residences. In lieu of issuing such bonds, State and local governments may provide homebuyers a Federal tax credit for interest on certain home mortgages by providing them with mortgage credit certificates.

Provision: Under the provisions, interest on newly issued PABs would be included in income and thus subject to tax. Additionally, no Federal tax credits would be allowed for mortgage credit certificates issued after 2014. The provisions would be effective for bonds issued after 2014 with regard to PABs and tax years ending after 2014 with regard to mortgage credit certificates.

Considerations:

- The Federal government should not subsidize the borrowing costs of private businesses, allowing them to pay lower interest rates, while competitors with similar creditworthiness but that are unable to avail themselves of PABs must pay a higher interest rate on the debt they issue.
- The provisions would not apply to any previously issued bond, nor would the provisions prevent State and local governments from issuing PABs in the future; the provisions would merely remove the Federal tax subsidy for newly issued bonds.

JCT estimate: According to JCT, the provisions would increase revenues by \$23.9 billion over 2014-2023.

Sec. 3433. Repeal of advance refunding bonds.

Current law: Under current law, a refunding bond is any bond used to pay principal, interest, or redemption price on a prior bond issue (the refunded bond). A current refunding occurs when the refunded bond is redeemed within 90 days of issuance of the refunding bonds. An advance refunding is issued more than 90 days before the redemption of the refunded bond. Interest on current refunding bonds is generally not taxable. Interest on advanced refunding bonds is generally not taxable for governmental bonds but is taxable for PABs.

Provision: Under the provision, interest on advanced refunding bonds (i.e., refunding bonds issued more than 90 days before the redemption of the refunded bonds) would be taxable. Interest on current refunding bonds would continue to be tax-exempt. The provision would be effective for advance refunding bonds issued after 2014.

Considerations:

- Current-law advanced refunding bonds provide State and local governments with incentives to issue two sets of Federally subsidized debt to finance the same activity.
- The provision would not affect the taxation of interest on refunding bonds issued within 90 days of the redemption of the refunded bond.

JCT estimate: According to JCT, the provision would increase revenues by \$8.3 billion over 2014-2023.

Sec. 3434. Repeal of tax credit bond rules.

Current law: Under current law, State and local governments and other entities may issue various categories of tax credit bonds to finance specific types of projects. Each category of tax credit bond has its own set of rules regarding volume cap, if any, and allocation. Holders of tax credit bonds receive Federal tax credits fully or partially in lieu of interest payments from the issuer, depending on the level of Federal subsidy. For some of these bonds, during 2009 and 2010, issuers had the option of instead issuing taxable bonds and receiving direct payments from the Federal government.

The authority to issue some types of tax credit bonds has expired, and the volume cap to issue some of these bonds has been fully used. There are some types of tax credit bonds for which there is still outstanding volume cap and issuing authority has not expired.

Provision: Under the provision, the rules relating to tax credit bonds generally would be repealed. Holders and issuers would continue receiving tax credits and payments for tax credit bonds already issued, but no new bonds could be issued. The provision would be effective for bonds issued after the date of enactment.

JCT estimate: According to JCT, the provisions would reduce revenues by \$0.4 billion over 2014-2023, and reduce outlays by \$2.6 billion over 2014-2023.

Subtitle F – Insurance Reforms

Sec. 3501. Exception to pro rata interest expense disallowance for corporate-owned life insurance restricted to 20-percent owners.

Current law: Under current law, business interest deductions are reduced to the extent the interest is allocable to insurance policy cash values based on a pro rata formula, unless the insurance policy insures the lives of officers, directors, employees, or 20-percent owners of the business. A similar rule applies in the case of businesses that are insurance companies.

Provision: Under the provision, the exception to the pro rata interest expense disallowance rule would not apply to officers, directors, or employees, and thus only would apply to 20-percent owners of the business that holds the insurance contract. The provision would be effective for insurance contracts issued after 2014 with any material increase in the death benefit or other material changes to existing contracts being treated as new contracts.

Considerations:

- The provision was included in the Obama Administration's fiscal year 2014 budget proposal.
- The provision would further limit the ability of leveraged businesses to fund deductible interest expenses with tax-exempt or tax-deferred income credited under life insurance, endowment, or annuity contracts insuring certain types of individuals.

- Specifically, the provision would more narrowly target the current-law exception to arrangements that are more likely to reflect business succession planning strategies.

JCT estimate: According to JCT, the provision would increase revenues by \$7.3 billion over 2014-2023.

Sec. 3502. Net operating losses of life insurance companies.

Current law: Under current law, net operating losses of a trade or business generally may be carried back up to two tax years or carried forward up to 20 tax years. In the case of life insurance companies, however, net operating losses may be carried back up to three tax years or carried forward up to 15 tax years.

Provision: Under the provision, life insurance companies would be allowed to carry net operating losses back up to two tax years or forward up to 20 tax years, in conformity with the general net operating loss carryover rules. The provision would be effective for losses arising in tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.3 billion over 2014-2023.

Sec. 3503. Repeal of small life insurance company deduction.

Current law: Under current law, life insurance companies may deduct 60 percent of their first \$3 million of life insurance-related income. The deduction is phased out for companies with income between \$3 million and \$15 million. In addition, the deduction is not available to life insurance companies with assets of at least \$500 million.

Provision: Under the provision, the special deduction for small life insurance companies would be repealed. The provision would be effective for tax years beginning after 2014.

Consideration:

- The provision would eliminate a tax subsidy for businesses in a particular industry that is not available to similar businesses in other industries.
- Eliminating this subsidy also would remove a tax preference that is provided to the segment of the insurance industry in which the risk distribution benefits of pooling are the weakest.

JCT estimate: According to JCT, the provision would increase revenues by \$0.3 billion over 2014-2023.

Sec. 3504. Computation of life insurance tax reserves.

Current law: Under current law, life insurance companies may deduct net increases in life insurance company reserves, while net decreases in such reserves are included in gross income. In computing changes in reserves, the life insurance reserve for a contract generally is the greater of the net surrender value of the contract or the reserve determined under rules provided in the Code, which for discounting purposes employ a prescribed interest rate that is equal to the greater of the applicable Federal rate or the prevailing State assumed interest rate. The “prevailing State assumed interest rate” is equal to the highest assumed interest rate permitted to be used in at least 26 States in computing regulatory life insurance reserves. The discount rate used by property and casualty (P&C) insurance companies for reserves is the average applicable Federal mid-term rate over the 60 months ending before the beginning of the calendar year for which the determination is made.

Provision: Under the provision, the current-law prescribed discount rate for life insurance reserves would be replaced with the average applicable Federal mid-term rate over the 60 months ending before the beginning of the calendar year for which the determination is made, plus 3.5 percentage points. The provision would be effective for tax years beginning after 2014. The effect of the provision on computing reserves for contracts issued before the effective date would be taken into account ratably over the succeeding eight tax years.

Consideration: Replacing the current-law prescribed interest rate with an interest rate based on an enhanced mid-term applicable Federal rate that generally tracks corporate bond rates over the long run would better reflect economic reality. The current-law rule that uses a regulatory-based measurement generally understates income.

JCT estimate: According to JCT, the provision would increase revenues by \$24.5 billion over 2014-2023.

Sec. 3505. Adjustment for change in computing reserves.

Current law: Under current law, taxpayers are required to make adjustments to taxable income when they change a tax accounting method, so that the accounting method change does not result in an omission or duplication of income or expense. For taxpayers other than life insurance companies, an adjustment that reduces taxable income generally is taken into account in the tax year during which the accounting method change occurs, while an adjustment that increases taxable income generally may be taken into account over the course of four tax years, beginning with the tax year during which the accounting method change occurs. For life insurance companies, an adjustment in computing reserves (which is similar to a change in tax accounting method for other businesses) may be taken into account over ten years (regardless of whether the adjustment reduces or increases taxable income).

Provision: Under the provision, the special 10-year period for adjustments to take into account changes in computing reserves by life insurance companies would be repealed. As a result, the general rule for making tax accounting method adjustments would apply to changes in

computing reserves by life insurance companies. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$2.5 billion over 2014-2023.

Sec. 3506. Modification of rules for life insurance proration for purposes of determining the dividends received deduction.

Current law: Under current law, for insurance companies, deductions are limited or disallowed in certain circumstances if they are related to the receipt of exempt income. Under so-called “proration” rules, life insurance companies are required to reduce deductions, including dividends-received deductions and reserve deductions to account for the fact that a portion of dividends and tax-exempt interest received is used to fund tax-deductible reserves for the companies’ obligations to policyholders. This portion is determined by a formula that computes the respective shares of net investment income that belong to the company and to the policyholders. Current law is unclear as to what methods companies may use to compute the company share.

Provision: Under the provision, the portion of dividends and tax-exempt interest received that is set aside for obligations to policyholders would be determined separately for the company’s general account (which supports non-variable insurance products) and for each separate account (which supports variable life insurance and annuity contracts). In addition, the formula for determining this portion would be modified so that it compares mean reserves to mean assets of each account (rather than computing the respective shares of net investment income that belong to the company and to the policyholders). The provision would be effective for tax years beginning after 2014.

Consideration: The current-law rules for computing net investment income are essentially based on a previous system of life insurance company taxation that was changed over 30 years ago, and the provision would provide an updated measure of the company and policyholder shares of net investment income that is simpler and more accurate.

JCT estimate: According to JCT, the provision would increase revenues by \$4.5 billion over 2014-2023.

Sec. 3507. Repeal of special rule for distributions to shareholders from pre-1984 policyholders surplus account.

Current law: Tax rules for insurance companies that were enacted in 1959 included a rule that half of a life insurer’s operating income was taxed only when the company distributed it, and a “policyholders surplus account” kept track of the untaxed income. In 1984, this deferral of taxable income was repealed, although existing policyholders’ surplus account balances remained untaxed until they were distributed. Legislation enacted in 2004 provided a two-year

holiday that permitted tax-free distributions of these balances during 2005 and 2006. During this period, most companies eliminated or significantly reduced their balances.

Provision: Under the provision, the rules for policyholders' surplus accounts would be repealed. The provision would generally be effective for tax years beginning after 2014, and any remaining balances would be subject to tax, payable in eight annual installments.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 3508. Modification of proration rules for property and casualty insurance companies.

Current law: Under current law, deductions are limited or disallowed in certain circumstances if they are related to the receipt of exempt income. Under so-called "proration" rules that reflect the fact that reserves generally are funded in part by certain untaxed income, property and casualty (P&C) insurance companies are required to reduce reserve deductions for losses incurred by 15 percent of (1) the company's tax-exempt interest, (2) the deductible portion of dividends received, and (3) the increase for the tax year in the cash value of life insurance, endowment, or annuity contracts the company owns.

Provision: Under the provision, the fixed 15-percent reduction in the reserve deduction for P&C insurance companies would be replaced with a formula whereby the reserve deduction is reduced by a percentage that is equal to the ratio of the tax-exempt assets of the company to all assets of the company. The provision would be effective for tax years beginning after 2014.

Consideration: The provision would replace an arbitrary fixed-percentage reduction in reserve deductions with a formula that would result in P&C insurance companies more accurately measuring the reserve deduction.

JCT estimate: According to JCT, the provision would increase revenues by \$2.9 billion over 2014-2023.

Sec. 3509. Repeal of special treatment of Blue Cross and Blue Shield organizations, etc.

Current law: Under current law, charitable and social welfare organizations are eligible for tax-exempt status only if no substantial part of their activities consists of providing commercial-type insurance. When this rule was enacted in 1986, special rules were provided for existing, tax-exempt Blue Cross and Blue Shield (BCBS) organizations that stood to lose their tax-exempt status. These rules also apply to other health insurance organizations that satisfy certain requirements.

The special rules provide a deduction equal to 25 percent of claims incurred and expenses incurred in administering such claims, to the extent the amount of claims and expenses incurred exceeds the adjusted surplus of the organization at the beginning of the tax year. In addition,

these rules provide an exception from the application of a 20-percent reduction in the deduction for increases in unearned premiums that applies generally to P&C companies. The special rules also provide that these organizations are treated as stock insurance companies for purposes of the Code.

Provision: Under the provision, the special rules for BCBS and certain other health insurance organizations would be repealed. With regard to the 25-percent deduction and the exception from the application of the 20-percent reduction in the deduction for increases in unearned premiums, the provision would be effective for tax years beginning after 2014. With regard to the treatment of these organizations as stock insurance companies, the provision would be effective for tax years beginning after 2016.

Consideration: Special transition rules enacted in 1986 when the BCBS organizations initially became subject to tax are no longer necessary and provide preferential tax treatment to some health insurance providers over other providers in a market in which health insurance premiums are now regulated.

JCT estimate: According to JCT, the provision would increase revenues by \$4.0 billion over 2014-2023.

Sec. 3510. Modification of discounting rules for property and casualty insurance companies.

Current law: Under current law, a P&C insurance company may deduct unpaid losses that are discounted using mid-term applicable Federal rates and based on a loss payment pattern. The loss payment pattern for each line of insurance business is determined by reference to the industry-wide historical loss payment pattern applicable to such line of business, although companies may elect to use their own particular historical loss payment patterns.

The loss payment pattern is computed based upon the assumption that all losses are paid (1) in general, during the accident year and the three calendar years following the accident year, or (2) in the case of lines of business relating to auto or other liability, medical malpractice, workers' compensation, multiple peril lines, international coverage, and reinsurance, during the accident year and the ten calendar years following the accident year. In the case of long-tail lines of business, a special rule extends the loss payment pattern period, so that the amount of losses which would have been treated as paid in the tenth year after the accident year is treated as paid in the tenth year and in each subsequent year (up to five years) in an amount equal to the amount of the losses treated as paid in the ninth year after the accident year.

Provision: Under the provision, P&C insurance companies would use the corporate bond yield curve (as specified by Treasury) to discount the amount of unpaid losses. In addition, the special rule that extends the loss payment pattern period for long-tail lines of business would be applied similarly to all lines of business (but without the 5-year limitation on the extended period), so that (1) in general, the amount of losses that would have been treated as paid in the third year after the accident year would be treated as paid in the third year and in each subsequent year in

an amount equal to the amount of the losses treated as paid in the second year after the accident year, and (2) in the case of lines of business relating to auto or other liability, medical malpractice, workers' compensation, multiple peril lines, international coverage, and reinsurance, the amount of losses which would have been treated as paid in the tenth year after the accident year would be treated as paid in the tenth year and in each subsequent year in an amount equal to the amount of the losses treated as paid in the ninth year after the accident year. The provision also would repeal the election to use company-specific, rather than industry-wide, historical loss payment patterns. The provision generally would be effective for tax years beginning after 2014, with a transition rule that would spread adjustments relating to pre-effective date losses and expenses over such tax year and the succeeding seven tax years.

Considerations:

- Replacing the mid-term applicable Federal rate with the corporate bond yield would result in a more accurate measurement of income for P&C insurance companies.
- In addition, generally applying the rules for determining the loss payment pattern period that currently only apply to long-tail lines of business would provide consistent treatment for all lines of insurance business.

JCT estimate: According to JCT, the provision would increase revenues by \$17.9 billion over 2014-2023.

Sec. 3511. Repeal of special estimated tax payments.

Current law: Under current law, insurance companies may elect to claim a deduction equal to the difference between the amount of reserves computed on a discounted basis and the amount computed on an undiscounted basis. Companies that make this election are required to make a special estimated tax payment equal to the tax benefit attributable to the deduction. In addition, the deductions are added to a special loss discount account and, as losses are paid in future years, amounts are subtracted from the account and made subject to tax (net of prior special estimated tax payments). Amounts added to the special loss discount account are automatically subtracted from the account and made subject to tax if they have not already been subtracted after 15 years.

Provision: Under the provision, the elective deduction and related special estimated tax payment rules would be repealed. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 3512. Capitalization of certain policy acquisition expenses.

Current law: Under current law, the expenses of a life insurance company that are associated with earning a stream of premium income generally are required to be spread over ten years rather than deducted immediately, to reflect the fact that such income ordinarily is collected over

a period of years. The expenses that are spread are calculated using a simplified method that reflects expense ratios for three broad categories of insurance contracts. The expenses that must be spread are the lesser of: (1) a specified percentage of the net premiums received on each of a company's three categories of insurance contracts; or (2) the company's general deductions. For annuity contracts, the specified percentage is 1.75 percent; for group life insurance contracts, it is 2.05 percent; and for all other specified insurance contracts, it is 7.7 percent.

Provision: Under the provision, the categories of insurance contracts and the percentages of expenses to be spread would be updated to reflect current expense ratios for insurance products. The three categories of insurance contracts would be replaced with two categories: (1) group contracts; and (2) all other specified contracts. The percentage of net premiums that would be spread over ten years would be 5 percent for group insurance contracts and 12 percent for all other specified contracts. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$11.7 billion over 2014-2023.

Secs. 3513-3514. Tax reporting for life settlement transactions; Clarification of tax basis of life insurance contracts.

Current law: Under current law, the seller of a life insurance contract (including a sale back to the issuer, or "settlement") generally must report as taxable income the difference between the amount received from the buyer and the adjusted basis in the contract. The IRS has taken the position that a taxpayer's basis in a life insurance contract generally is equal to all premiums paid by the taxpayer if the taxpayer settles the contract, but that the taxpayer's basis must be reduced by the cost of insurance (i.e., the non-investment component of the premiums paid) if the taxpayer sells the contract to a third party.

The buyer of a previously issued life insurance contract who subsequently receives a death benefit generally is subject to tax on the difference between the death benefit received and the sum of the amount paid for the contract and premiums subsequently paid by the buyer.

Provision: Under the provision, a taxpayer that purchases an interest in an existing life insurance contract with a death benefit equal to or exceeding \$500,000 would be required to report (1) the purchase price, the identity of the buyer and seller, and the issuer and policy number to both the IRS and the seller, and (2) the identity of the buyer and seller, and the issuer and policy number to the issuing insurance company. Upon the payment of any policy benefits to the buyer of a previously issued life insurance contract, the insurance company would be required to report the gross benefit payment, the identity of the buyer, and the insurance company's estimate of the buyer's basis to the IRS and to the payee. This aspect of the provision would be effective for reportable sales of life insurance contracts and payments of death benefits occurring after 2014.

In addition, a taxpayer's basis in a life insurance contract would not be reduced by the cost of insurance, regardless of whether the taxpayer settles or sells the contract. This aspect of the provision would be effective for transactions entered into after August 25, 2009.

JCT estimate: According to JCT, the provisions, along with section 3515 of the discussion draft, would increase revenues by \$0.2 billion over 2014-2023.

Sec. 3515. Exception to transfer for valuable consideration rules.

Current law: Under current law, a payment received under a life insurance contract upon the death of the insured is excluded from income. If the life insurance contract was transferred for valuable consideration, however, the recipient must include the payment less the recipient's basis in the contract, unless (1) the contract has a carryover basis, or (2) the contract was transferred to the person whose life is insured under the contract or to a partner of the insured, or a partnership or corporation in which the insured is a partner or shareholder.

Provision: Under the provision, the exception for carryover basis transfers and transfers to the person whose life is insured (or to a partner of the insured, or a partnership or corporation in which the insured is a partner or shareholder) would not apply if the acquirer of the life insurance contract has no substantial relationship with the insured apart from the acquirer's interest in the contract (i.e., the acquirer must include the amount of the payment on the death of the insured, reduced by the acquirer's basis in the contract). The provision would be effective for transfers after 2014.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for sections 3513-3514 of the discussion draft.

Subtitle G – Pass-Thru and Certain Other Entities

Part 1 – S Corporations

Considerations for Subtitle G, Part 1:

- The S corporation provisions in the discussion draft are intended to encourage C corporations to elect S status and provide greater flexibility to current S corporations in their day-to-day operations.
- The provisions are drawn from Option 1 of the Committee's March 12, 2013, discussion draft, and reflect the more incremental approach to passthrough reform.
- The S corporation provisions address a number of complexities for S corporations under current law, simplifying the rules, eliminating penalties for inadvertent errors, and reducing the tax burden on S corporations generally.

Sec. 3601. Reduced recognition period for built-in gains made permanent.

Current law: Under current law, an S corporation is subject to an entity-level tax at the highest corporate rate on certain built-in gains of property that it held while operating as a C corporation. The tax applies to gain recognized within ten years from the date that the C corporation elected to be an S corporation. Through 2013, a temporary provision reduced this period to five years.

Provision: Under the provision, the temporary five-year period would be made permanent. The provision would be effective for tax years beginning after 2013.

JCT estimate: According to JCT, the provision would reduce revenues by \$3.0 billion over 2014-2023.

Sec. 3602. Modifications to S corporation passive investment income rules.

Current law: Under current law, an S corporation that previously operated as a C corporation may be subject to tax at the highest corporate rate on certain passive income if more than 25 percent of its gross receipts are derived from passive investment income. In addition, if the S corporation exceeds the 25-percent passive income threshold for three consecutive years, the corporation's election to be treated as an S corporation is terminated automatically.

Provision: Under the provision, the passive-income threshold would be increased from 25 percent to 60 percent. The provision also would repeal the current-law provision terminating the S corporation election for excessive passive income. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by \$3.6 billion over 2014-2023.

Sec. 3603. Expansion of qualifying beneficiaries of an electing small business trust.

Current law: Under current law, an S corporation is limited to 100 or fewer shareholders, which generally must be individuals who are U.S. citizens or residents or certain exempt organizations and trusts. Current law also permits special trusts, known as electing small business trusts (ESBTs), to be S corporation shareholders. Generally, the eligible beneficiaries of an ESBT include individuals, estates, and certain charitable organizations eligible to hold S corporation stock directly. A nonresident alien individual may not be a shareholder of an S corporation and may not be a potential current beneficiary of an ESBT. The portion of an ESBT that consists of the stock of an S corporation is treated as a separate trust. In general, this trust is taxed on its share of the S corporation's income at the highest rate of tax imposed on individual taxpayers. Such income (whether or not distributed by the ESBT) is not taxed to the beneficiaries of the ESBT.

Provision: Under the provision, a nonresident alien individual could be a potential current beneficiary of an ESBT. Accordingly, a nonresident alien individual would be permitted to own shares in an S corporation, provided such ownership is indirect through an ESBT. The provision would be effective on January 1, 2015.

JCT estimate: According to JCT, the provision would reduce revenues by \$0.1 billion over 2014-2023.

Sec. 3604. Charitable contribution deduction for electing small business trusts.

Current law: Under current law, an electing small business trust (ESBT) may be a shareholder of an S corporation. Because an ESBT is a trust, it must follow the rules for deducting charitable contributions that are applicable to trusts, rather than those applicable to individuals. Generally, a trust is allowed a deduction for charitable contributions without any limitation on the amount of the deduction relative to the trust's gross income. If a trust makes contributions in excess of its gross income, no carryover of the excess is allowed as a deduction in a future year. In contrast, an individual may deduct charitable contributions up to certain percentages of adjusted gross income and is generally permitted to carry forward excess contributions for five years.

Provision: Under the provision, the charitable contribution rules applicable to individuals, rather than to trusts, would apply to ESBTs. Thus, the percentage limitations and carryforward provisions applicable to individuals would apply to contributions made by the portion of an ESBT holding S corporation stock. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by \$0.1 billion over 2014-2023.

Sec. 3605. Permanent rule regarding basis adjustment to stock of S corporations making charitable contributions of property.

Current law: Under current law, if an S corporation contributes money or other property to a charity, each shareholder takes into account his pro rata share of the contribution in determining his own income tax liability. A shareholder reduces the basis in his S corporation stock by the amount of the S corporation's charitable contribution that flows through to the shareholder. For contributions made in tax years beginning before 2014, the basis reduction in the S corporation stock is equal to the shareholder's pro rata share of the adjusted basis of the contributed property. For contributions made in tax years beginning after 2013, the amount of the reduction is the shareholder's pro rata share of the fair market value of the contributed property.

Provision: Under the provision, the pre-2014 basis-adjustment rule would be made permanent. Thus, an S corporation shareholder would reduce the basis in his S corporation stock by his pro rata share of the adjusted basis of the contributed property. This rule would provide consistent

treatment of charitable contributions between S corporation shareholders and partners in a partnership. The provision would be effective for tax years beginning after 2013.

JCT estimate: According to JCT, the provision would reduce revenues by \$1.1 billion over 2014-2023.

Sec. 3606. Extension of time for making S corporation elections.

Current law: Under current law, a small business corporation may elect to be treated as an S corporation for any tax year at any time during the preceding tax year or by the 15th day of the third month of the tax year for which the election is made. An election to be an S corporation made by the 15th day of the third month of a corporation's tax year is effective for that tax year if the corporation meets all eligibility requirements for the portion of the tax year prior to filing the election and all the required shareholders consent to the election. If these requirements are not met, the election becomes effective for the following tax year. An election continues in effect for subsequent tax years until it is terminated (including revocation by the taxpayer).

Similar rules apply to an election to treat an S corporation subsidiary as a qualified S corporation subsidiary (QSub) – which allows the S corporation to treat the subsidiary as a division of the S corporation and file a single return. In addition, Qualified Subchapter S Trusts (QSST) and Electing Small Business Trusts (ESBT) may elect to qualify as S corporation shareholders if the election is made by the 15th day of the third month after the transfer of stock to the trust.

Provision: Under the provision, the election process would be simplified by permitting a small business corporation to elect on its income tax return to be treated as an S corporation for the tax year to which the return relates, provided that the return is filed not later than the applicable due date (with extensions). The provision also would provide that the IRS may accept as timely a late filed revocation if there is reasonable cause shown. In addition, the provision would apply election procedures to QSubs that are similar to the rules for electing S corporation status. Lastly, the provision would permit the IRS to coordinate the election rules for a QSST and ESBT with the new election rules for S corporations and QSubs. The provision would apply to elections for tax years beginning after 2014. In the case of revocation, the provision would apply to revocations after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 3607. Relocation of C corporation definition.

Current law: Under current law, the definition of a C corporation as being a corporation other than an S corporation is located in Subchapter S of the Code.

Provision: Under the provision, the definition would be moved to Code section 7701, which provides generally applicable definitions. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Part 2 – Partnerships

Considerations for Subtitle G, Part 2:

- The partnership provisions are generally drawn from Option 1 of the Committee’s March 12, 2013, discussion draft, and reflect a more incremental approach to passthrough reform.
- The partnership provisions establish additional limits on the use of partnerships as tax avoidance structures without interfering with the legitimate business operations of partnerships, clarify confusing areas of partnership law, and better align partnership rules with the relevant S corporation rules.

Sec. 3611. Repeal of rules relating to guaranteed payments and liquidating distributions.

Current law: Under current law, guaranteed payments made by a partnership to a partner generally are payments made without regard to the income of the partnership and are for services or for the use of capital (e.g., loans) provided by the partner. Guaranteed payments are distinct from a partnership distribution of income or capital, and from payments by the partnership to a partner not acting in his capacity as a partner. Guaranteed payments generally are deductible by the partnership and includible in the partner’s taxable income.

Current law also provides rules for treating payments made in the liquidation of a retiring or deceased partner’s partnership interest. Such payments are treated either as (1) a distributive share or guaranteed payment or (2) payments in exchange for the partner’s interest in partnership property. For a deceased partner, income earned prior to death (i.e., income in respect of a decedent) is includible in the deceased partner’s gross income in the year of death, and special rules apply for determining the basis of the partnership interest in the hands of the successor partner.

Provision: Under the provision, the rules relating to guaranteed payments to partners would be repealed. Thus, payments received by partners would constitute either payments in their capacity as partners (i.e., part of their distributive shares of partnership income or loss) or in their capacity as non-partners (i.e., as an independent third party). In addition, the provision would repeal the special rule for deceased or retiring partners that treats certain payments in liquidation as guaranteed payments, subjecting such payments to the general rules applicable to the transaction (e.g., the provisions relating to payments of deferred compensation) or the applicable rules governing income in respect of a decedent. The provision would be effective for tax years beginning after 2014 and transfers to decedents made after 2014. In addition, the provision would apply to payments made in liquidation to partners retiring or dying after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.3 billion over 2014-2023.

Sec. 3612-3614. Mandatory adjustments to basis of partnership property in case of transfer of partnership interests; Mandatory adjustments to basis of undistributed partnership property; Corresponding adjustments to basis of properties held by partnership where partnership basis adjusted.

Current law: Under current law, if a partnership makes a one-time election, or if the partnership has a substantial built-in loss (i.e., the partnership's adjusted basis in its property exceeds the fair market value by more than \$250,000) immediately after a transfer of a partnership interest by a partner, the partnership must make adjustments to the basis of partnership property. Similar rules apply in the case of a partnership distribution of property to a partner. The adjustments are intended to account for (1) the difference that can arise between a partner's adjusted basis in the partnership property and the partner's basis in his partnership interest and (2) the difference in the partnership's adjusted basis in its property with respect to partners who do not receive distributions of property. Certain securitization partnerships and electing investment partnerships are exempt from the basis-adjustment requirement with respect to substantial built-in losses in certain instances. When basis adjustments are required under current law, no corresponding adjustments are required by upper- or lower-tier partnerships owning an interest in the partnership making the basis adjustment.

Provision: Under the provision, mandatory adjustment of a partnership's basis in partnership property would be required when a partner transfers his interest in a partnership or a partnership distributes property to a partner. These rules would also apply to securitization and electing investment partnerships. In addition, corresponding adjustments would be required in cases involving tiered partnerships. The provision would be effective for transfers and distributions after 2014.

JCT estimate: According to JCT, the provisions would increase revenues by \$1.1 billion over 2014-2023.

Sec. 3615. Charitable contributions and foreign taxes taken into account in determining limitation on allowance of partner's share of loss.

Current law: Under current law, a partner generally may only deduct certain expenditures and losses (including capital losses) of a partnership to the extent of the partner's adjusted basis in his partnership interest. Charitable contributions and foreign taxes paid by a partnership are not subject to this limitation and, as a result, can be deducted even if they exceed the partner's basis.

Provision: Under the provision, a partner would be required to take into account charitable contributions and foreign taxes paid by a partnership in calculating the limitation on the partner's share of losses, conforming the partnership rules to the S corporation rules and thus preventing a

partner from deducting losses in excess of basis. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.9 billion over 2014-2023.

Sec. 3616. Revisions related to unrealized receivables and inventory items.

Current law: Under current law, gain or loss from the sale or exchange of a partnership interest generally is treated as gain or loss from a capital asset. Gain is treated as ordinary income, however, on the sale or exchange of a partnership interest when the partnership holds unrealized receivables (i.e., uncollected payments for goods or services) or appreciated inventory (i.e., appreciated more than 120 percent). Certain distributions by a partnership to a partner are also treated as sales or exchanges when a partnership holds unrealized receivables or substantially appreciated inventory.

Provision: Under the provision, any distribution of an inventory item would be treated as a sale or exchange between the partner and the partnership, eliminating the requirement that inventory be substantially appreciated in value to trigger gain recognition. The provision also would simplify the definition of an unrealized receivable by providing that the term include any property other than an inventory item, but only to the extent of the amount that would be treated as ordinary income if the property were sold for its fair market value. The provision would be effective for distributions and partnership tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.8 billion over 2014-2023.

Sec. 3617. Repeal of time limitation on taxing precontribution gain.

Current law: Under current law, if a partner contributes appreciated property to a partnership, the partner does not recognize gain or loss at the time of the contribution, but the pre-contribution built-in gain or loss is preserved in the contributing partner's capital account. If the partnership subsequently distributes the property to another partner within seven years of the contribution, the contributing partner generally recognizes the pre-contribution gain or loss. Similar rules apply if the contributing partner receives other property of the partnership within seven years in what amounts to a disguised sale of the originally contributed property.

Provision: Under the provision, a partner who contributes property with pre-contribution built-in gains or losses to a partnership would be required to recognize the pre-contribution gain or loss when the partnership distributes such property. No limitation period would apply. The provision would be effective for property contributed to a partnership after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.4 billion over 2014-2023.

Sec. 3618. Partnership interests created by gift.

Current law: Under current law, a person is treated as a partner if he owns a capital interest in a partnership in which capital is a material income-producing factor, whether such interest was obtained by purchase or gift from another person. In the case of a partnership interest purchased by one family member from another, the interest is treated as created by gift and the fair market value of the interest is treated as donated capital to the partnership. Current law also provides special rules to prevent donors of partnership interests from assigning income with respect to services that the donor performs for the partnership or with respect to the donor's contributed capital.

Provision: Under the provision, the rule would be clarified to provide that a person is treated as a partner in a partnership in which capital is a material income-producing factor whether such interest was obtained by purchase or gift and regardless of whether such interest was acquired from a family member. The rules preventing assignment of income would continue to apply to transfers of partnership interests by gift. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.8 billion over 2014-2023.

Sec. 3619. Repeal of technical termination.

Current law: Under current law, a partnership terminates only if: (1) no part of any business, financial operations, or venture of the partnership continues to be carried on by any of its partners, or (2) within a 12-month period there is a sale or exchange of 50 percent or more of the total interests in partnership capital and profits. The second type of termination is commonly referred to as a technical termination. When a technical termination occurs, the business of the partnership continues in the same legal form, but the partnership must make new elections for various accounting methods, depreciation lives, and other purposes.

Provision: Under the provision, the technical termination rule would be repealed. Thus, the partnership would be treated as continuing even if more than 50 percent of the total capital and profits interests of the partnership are sold or exchanged, and new elections would not be required or permitted. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.5 billion over 2014-2023.

Sec. 3620. Publicly traded partnership exception restricted to mining and natural resources partnerships.

Current law: Under current law, a publicly traded partnership is a partnership the interests in which are traded on an established securities market or are readily tradable on a secondary

market. A publicly traded partnership generally is treated as a C corporation for Federal tax purposes. An exception from such treatment applies to a publicly traded partnership (other than a regulated investment company, management company or unit investment trust) if 90 percent or more of the partnership's gross income is qualifying income. Qualifying income includes: interest, dividends, capital gains, and rents from real property; income and gains from certain activities relating to minerals or natural resources (e.g., mining, production, refining, and transporting); and income and gains from certain commodities and derivatives.

Provision: Under the provision, the special exceptions for publicly traded partnerships would be repealed other than for partnerships with 90 percent of their income from activities relating to mining and natural resources (e.g., mining, production, refining, and transporting). Thus, publicly traded partnerships would generally be treated as C corporations. The provision would be effective for tax years beginning after 2016.

JCT estimate: According to JCT, the provision would increase revenues by \$4.3 billion over 2014-2023.

Sec. 3621. Ordinary income treatment in the case of partnership interests held in connection with performance of services.

Current law: Under current law, a partner holding a partnership interest includes in income his distributive share of partnership income and gain (whether or not actually distributed). The character of partnership items passes through to the partners as if the items were realized directly by the partners. A partner's basis in the partnership interest is increased by any amount of gain included in the partner's income and is decreased by any losses. Money distributed to the partner by the partnership is taxed to the extent the amount exceeds the partner's basis in the partnership interest. Similarly, when a partner sells his partnership interest, gain generally is recognized to the extent the amount received exceeds the partner's basis in the partnership interest. The extent to which such gain is capital in character depends on the holding period and special partnership rules that recharacterize capital gains as ordinary income in certain cases.

It is common for partnerships to be used for investment purposes. In particular, private equity funds are organized as partnerships. In a typical private equity fund, the general partner contributes a small amount of capital and manages the assets, typically stock of companies, in exchange for a profits interest (or "carried interest") in the partnership (generally a 20-percent profits interest). Limited partners provide the additional capital needed to acquire assets. In addition, the general partner is paid regular fees for managing the assets, which generally consists of improving the operations, governance, capital structure and strategic position of companies. In general, gain from the sale of stock of the companies owned by the fund results in capital gain. Thus, the general partner that manages the partnership will receive a distribution of capital gain based on his profits interest when the partnership sells the stock of any company owned by the partnership.

Provision: Under the provision, certain partnership interests held in connection with the performance of services would be subject to a rule that characterizes a portion of any capital

gains as ordinary income. This rule would apply to partnership distributions and dispositions of partnership interests. An applicable partnership interest would include any interest transferred, directly or indirectly, to a partner in connection with the performance of services by the partner, provided that the partnership is engaged in a trade or business conducted on a regular, continuous and substantial basis consisting of: (1) raising or returning capital, (2) identifying, investing in, or disposing of other trades or businesses, and (3) developing such trades or businesses. The provision would not apply to a partnership engaged in a real property trade or business.

The recharacterization formula generally would treat the service partner's applicable share of the invested capital of the partnership as generating ordinary income by multiplying that share by a specified rate of return (the Federal long-term rate plus 10 percentage points), intended to approximate the compensation earned by the service partner for managing the capital of the partnership. The recharacterization amount would be determined (but not realized) on an annual basis and tracked over time. To the extent a service partner contributes capital to the partnership, the result would be less capital gain being characterized as ordinary income. Any distribution or gain from the sale of a partnership interest (i.e., a realization event) then would be treated as ordinary to the extent of the partner's recharacterization account balance for the tax year. Amounts in excess of the recharacterization account balance would be capital gain. The invested capital of a partnership is, as of any day, the total cumulative value, determined at the time of contribution, of all money and other property contributed to the partnership on or before such day. Partner loans to the partnership and indebtedness entitled to share in the equity of the partnership would qualify as invested capital.

If a taxpayer, at any time during a tax year, holds directly or indirectly more than one applicable partnership interest in a single partnership interest, all interests in a partnership would be aggregated and treated as a single interest.

The provision would be effective for tax years beginning after 2014.

Considerations:

- Current law generally taxes the profits derived from the development and sale of property in the ordinary course of a trade or business as ordinary income, not capital gain. In contrast, the inherent enterprise value of a successful business, which is recognized by the owners only when the business is sold or liquidated, generally is treated as capital gain.
- A partnership (e.g., private equity fund) that is in the business of raising capital, investing in other businesses, developing such businesses, and ultimately selling them, is in the trade or business of selling businesses. The businesses bought and sold by the partnership are its inventory.
- For the tax law to be applied consistently, the profits derived by such an investment partnership and paid to its managing partners through management fees and a profits interest in the partnership (generally referred to as a carried interest), should be treated as ordinary income.
- The provision is intended to provide such consistent treatment by treating a portion of the annual earnings of a qualifying partnership as ordinary income. To the extent a

managing partner invests capital in the partnership or extraordinary gains are realized, the earnings would still be taxed as capital gains.

- The provision is designed to clarify a murky area of the tax law to provide consistent outcomes for similarly situated taxpayers through rules that are administrable and avoid the unintended adverse consequences of previous proposals to address this issue.

JCT estimate: According to JCT, the provision would increase revenues by \$3.1 billion over 2014-2023.

Sec. 3622. Partnership audits and adjustments.

Current law: Under current law, three different regimes exist for auditing partnerships. For partnerships with 10 or fewer partners, the IRS generally applies the audit procedures for individual taxpayers, auditing the partnership and each partner separately. For most large partnerships with more than 10 partners, the IRS conducts a single administrative proceeding (under the so-called TEFRA rules, which were adopted as part of the Tax Equity and Fiscal Responsibility Act of 1982) to resolve audit issues regarding partnership items that are more appropriately determined at the partnership level than at the partner level. Under the TEFRA rules, once the audit is completed and the resulting adjustments are determined, the IRS must recalculate the tax liability of each partner in the partnership for the particular audit year.

A third audit regime applies to partnerships with 100 or more partners that elect to be treated as Electing Large Partnerships (ELPs) for reporting and audit purposes. A distinguishing feature of the ELP audit rules is that unlike the TEFRA partnership audit rules, partnership adjustments generally flow through to the partners for the year in which the adjustment takes effect, rather than the audit year. As a result, the current-year partners' share of current-year partnership items of income, gains, losses, deductions, or credits are adjusted to reflect partnership adjustments relating to a prior year audit that take effect in the current year. The adjustments generally do not affect prior-year returns of any partners (except in the case of changes to any partner's distributive share).

Provision: Under the provision, the current TEFRA and ELP rules would be repealed, and the partnership audit rules would be streamlined into a single set of rules for auditing partnerships and their partners at the partnership level. Similar to the current TEFRA rule excluding partnerships with fewer than 10 partners, the provision would permit smaller partnerships with 100 or fewer partners (other than partners that generally are passthrough entities themselves) to opt out of the new rules, in which case the partnership and partners would be audited under the general rules applicable to individual taxpayers.

Under the streamlined audit approach, the IRS would examine the partnership's items of income, gains, losses, deductions, credits and partners' distributive shares for a particular year of the partnership (the "reviewed year"). Any adjustments would be taken into account by the partnership (not the individual partners) in the year that the audit or any judicial review is completed (the "adjustment year"). Partnerships would have the option of demonstrating that the adjustment would be lower if the adjustment included partner-level information from the

reviewed year rather than imputed amounts based solely on the partnership's information in such year. A partnership would also have the option of initiating an adjustment for a reviewed year, such as when it believes additional payment is due, with the adjustment taken into account in the adjustment year. In cases in which the partnership believes a refund is due, the partnership would continue to file an amended return and provided amended information returns to each partner. The provision would be effective for partnership tax years ending after 2014, with partnerships permitted to elect to apply the new rules for any partnership tax year beginning after the date of enactment.

JCT estimate: According to JCT, the provision would increase revenues by \$13.4 billion over 2014-2023.

Part 3 – REITs and RICs

Considerations for Subtitle G, Part 3:

- Since 1960, real estate investment trusts (REITs) have provided a tax-efficient vehicle for average investors to acquire diversified and passive interests in real estate.
- Recently, several companies that operate as taxable C corporations have explored converting into REITs for the purpose of avoiding corporate income tax.
- The REIT rules were not intended to facilitate erosion of the corporate tax base by allowing operating companies to convert from taxable C corporations into REITs.
- Some of these provisions would discourage erosion of the corporate tax base by making it more difficult for operating companies to convert into REITs, and by limiting REIT-eligible assets to those assets that are more closely related to real estate.
- At the same time, other provisions would improve the REIT rules as they apply to traditional REITs, making the REIT structure a more attractive investment vehicle.

Sec. 3631. Prevention of tax-free spinoffs involving REITs.

Current law: Under current law, a corporation is permitted to distribute (or spin off) to shareholders the stock of a controlled corporation on a tax-free basis if the transaction satisfies certain requirements. One such requirement is that both the distributing corporation and the controlled corporation must be engaged immediately after the distribution in the active conduct of a trade or business that has been conducted for at least five years. In 2001, the IRS ruled that a REIT could satisfy the active trade or business requirement for tax-free spin-off transactions, even though gain on the sale of property that is stock in trade of a REIT, or property that is includible in inventory of a REIT, does not satisfy the REIT income tests.

Provision: Under the provision, the 2001 IRS ruling would be overturned, so that REITs could not satisfy the active trade or business requirement for tax-free spin-off transactions. In addition, neither a distributing corporation nor a controlled corporation would be permitted to elect to be treated as a REIT for ten years following a tax-free spin-off transaction. The provision generally would be effective for distributions after February 26, 2014.

JCT estimate: According to JCT, the provision, along with section 3647 of the discussion draft, would increase revenues by \$5.9 billion over 2014-2023.

Sec. 3632. Extension of period for prevention of REIT election following revocation or termination.

Current law: Under current law, a taxpayer generally may not elect to be treated as a REIT within five years after the termination or revocation of a prior REIT election.

Provision: Under the provision, the five-year waiting period for electing to be treated as a REIT following the termination or revocation of a prior REIT election would be extended to ten years. The provision would be effective for terminations and revocations after 2014.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 3633. Certain short-life property not treated as real property for purposes of REIT provisions.

Current law: Under current law, a REIT must derive at least 95 percent of its income from certain specified real-estate-related and other investment income, and 75 percent of its income from such specified real-estate-related investment income. Gains from the sale or disposition of real property satisfy the 95-percent and 75-percent REIT income tests. In addition, at least 75 percent of the assets of a REIT must be comprised of real estate assets, cash and cash items, and government securities. The term “real estate assets” is defined to include real property and interests in real property.

Provision: Under the provision, the term “real property” would not include tangible property with a class life of less than 27.5 years (as defined under the depreciation rules) for purposes of the REIT income and asset tests. The provision would be effective for tax years beginning after 2016.

JCT estimate: According to JCT, the provision would increase revenues by \$0.6 billion over 2014-2023.

Sec. 3634. Repeal of special rules for timber held by REITs.

Current law: Under current law, the IRS has ruled that gains from the sale or disposition of real property that satisfy the REIT income tests (described above) include capital gains from the sale of standing timber. Such gains also include capital gains from the cutting and sale of timber during tax years that ended after May 22, 2008 and began on or before May 22, 2009.

In addition, certain gain from the sale of property held by a REIT in connection with the trade or business of producing timber qualifies under a safe harbor that protects such gain from being classified as prohibited transaction income that otherwise would be subject to a 100-percent prohibited transaction excise tax. The excise tax generally is imposed on REIT income derived from the sale of property that constitutes stock in trade, inventory, or property held by the REIT primarily for sale to customers in the ordinary course of the REIT's trade or business. Certain aspects of the special safe harbor for timber property sales only apply to the first tax year that began after May 22, 2008 and before May 22, 2009.

For certain "timber REITs," mineral royalty income from real property held in connection with the trade or business of producing timber is treated as satisfying the REIT income tests, and up to 25 percent of the value of a timber REIT's assets may consist of stock in a taxable REIT subsidiary. (This special limitation was enacted at a time when the general limitation on the value of such stock was 20 percent, which later was also increased to 25 percent for all REITs.) These special rules for timber REITs apply to the first tax year that began after May 22, 2008 and before May 22, 2009.

Provision: Under the provision, the term "real property" for purposes of the REIT rules would not include timber, consistent with the repeal of capital gains treatment for sales of standing and cut timber elsewhere in the discussion draft. In addition, the other temporary special rules for timber sales and timber REITs that have expired would be repealed. The provision would be effective for tax years beginning after 2016.

JCT estimate: According to JCT, the provision would increase revenues by \$0.2 billion over 2014-2023.

Sec. 3635. Limitation on fixed percentage rent and interest exceptions for REIT income tests.

Current law: Under current law, rents from real property and interest generally satisfy the 95-percent and 75-percent REIT income tests. In general, rents from real property and interest do not include amounts that are contingent on the income or profits of the tenant or debtor, but do include amounts that are based on a fixed percentage of receipts or sales of the tenant or debtor.

Provision: Under the provision, rents from real property and interest would not include amounts that are based on a fixed percentage of receipts or sales to the extent that such amounts are received or accrued from a single tenant that is a C corporation and the amounts received or accrued from such tenant constitute more than 25 percent of the total amount received or accrued by the REIT that is based on a fixed percentage of receipts or sales. The provision would be effective for tax years ending after 2014.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Secs. 3636-3637. Repeal of preferential dividend rule for publicly offered REITs; Authority for alternative remedies to address certain REIT distribution failures.

Current law: Under current law, REITs may deduct dividend distributions to their shareholders, but they are required to distribute annually as a dividend at least 90 percent of their income (other than net capital gain and certain other items). A preferential dividend does not qualify for the REIT dividend deduction and does not count toward satisfying the requirement that REITs distribute 90 percent of their income every year. A dividend is “preferential” unless it is distributed pro rata to all shareholders, with no preference to any share of stock over others within the same class of stock, and no preference to one class of stock over other classes of stock (except to the extent the class is entitled to a preference).

Provisions: Under the provisions, the preferential dividend rule would be repealed for publicly offered REITs. In addition, the IRS would have authority to provide an appropriate remedy for a preferential dividend distribution by non-publicly offered REITs in lieu of treating the dividend as not qualifying for the REIT dividend deduction and not counting toward satisfying the requirement that REITs distribute 90 percent of their income every year. Such authority would apply if the preferential distribution is inadvertent or due to reasonable cause and not due to willful neglect.

The provisions would be effective for distributions in tax years beginning after 2014.

JCT estimate: According to JCT, the provisions would reduce revenues by less than \$50 million over 2014-2023.

Sec. 3638. Limitations on designation of dividends by REITs.

Current law: Under current law, a REIT dividend is ordinary income to the REIT shareholder rather than a qualified dividend subject to a reduced rate of tax, unless the REIT designates such dividends as being attributable to income that is taxed to the REIT at regular corporate tax rates because it was not previously distributed, or to qualified dividends received by the REIT from other corporations. A REIT also may identify certain dividends as capital gain dividends to the extent of the REIT’s net capital gain, which would be subject to tax in the hands of the REIT shareholders at the capital gains rate.

Provision: Under the provision, the aggregate amount of dividends that could be designated by a REIT as qualified dividends or capital gain dividends would not be permitted to exceed the dividends actually paid by the REIT. The provision would be effective for distributions in tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 3639. Non-REIT earnings and profits required to be distributed by REIT in cash.

Current law: Under current law, REITs that accumulated earnings and profits prior to becoming a REIT (e.g., an entity that operated as a taxable C corporation prior to making an election to become a REIT) are required to distribute such earnings and profits (e.g., in cash, property, or stock) by the end of the first tax year after electing to become a REIT.

Provision: Under the provision, REITs would be required to distribute their pre-REIT earnings and profits in cash. The provision would be effective for distributions after February 26, 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 3640. Debt instruments of publicly offered REITs and mortgages treated as real estate assets.

Current law: Under current law, a REIT must derive at least 95 percent of its income from certain specified real estate-related and other investment income, and 75 percent of its income from such specified real estate-related investment income. In addition, at least 75 percent of the assets of a REIT must be comprised of real estate assets, cash and cash items, and government securities. The term “real estate assets” is defined to include real property and interests in real property.

Provision: Under the provision, debt instruments issued by publicly offered REITs, as well as interests in mortgages on interests in real property, would be treated as real estate assets for purposes of the 75-percent asset test. Income from debt instruments issued by publicly offered REITs would be treated as qualified income for purposes of the 95-percent income test, but not the 75-percent income test (unless they already are treated as qualified income under current law). In addition, not more than 25 percent of the value of a REIT’s assets would be permitted to consist of such debt instruments. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 3641. Asset and income test clarification regarding ancillary personal property.

Current law: Under current law, a REIT must derive at least 95 percent of its income from certain specified real estate-related and other investment income, and 75 percent of its income from such specified real estate-related investment income. In addition, at least 75 percent of the assets of a REIT must be comprised of real estate assets, cash and cash items, and government securities. The term “real estate assets” is defined to include real property and interests in real property.

Provision: Under the provision, certain ancillary personal property that is leased with real property would be treated as real property for purposes of the 75-percent asset test (similar to the current-law treatment of rents from such property for purposes of the REIT income tests). In addition, an obligation secured by a mortgage on such property would be treated as real property for purposes of the 75-percent income and asset tests, provided the fair market value of the personal property does not exceed 15 percent of the total fair market value of the combined real and personal property. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 3642. Hedging provisions.

Current law: Under current law, a REIT must derive at least 95 percent of its income from certain specified real-estate-related and other investment income, and 75 percent of its income from such specified real-estate-related investment income. Income from certain REIT hedging transactions generally is not included as gross income under either the 95-percent or 75-percent income tests.

Provision: Under the provision, the current-law treatment of REIT hedges would be extended to include income from hedges of previously acquired hedges that a REIT entered to manage risk associated with liabilities or property that have been extinguished or disposed. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 3643. Modification of REIT earnings and profits calculation to avoid duplicate taxation.

Current law: Under current law, REIT shareholders who receive distributions are treated as having received a dividend to the extent of the REIT's current and accumulated earnings and profits. Distributions in excess of earnings and profits are treated as a return of shareholders' capital (reducing the shareholders' basis on their REIT stock) and as capital gain of the shareholders to the extent the distributions exceed shareholders' stock basis in the REIT. A REIT may deduct a distribution to shareholders from its taxable income, and can satisfy the requirement that REITs distribute as dividends at least 90 percent of their taxable income, only to the extent of distributions that are made out of its earnings and profits. REIT earnings and profits are computed in the same manner as earnings and profits of other corporations and can differ from taxable income. However, a special rule for REITs provides that current earnings and profits are not reduced by any amount that does not reduce REIT taxable income.

Provision: Under the provision, current (but not accumulated) REIT earnings and profits for any tax year would not be reduced by any amount that is not allowable in computing taxable

income for the tax year and was not allowable in computing its taxable income for any prior tax year (e.g., certain amounts resulting from differences in the applicable depreciation rules). The provision would apply only for purposes of determining whether REIT shareholders are taxed as receiving a REIT dividend or as receiving a return of capital (or capital gain if a distribution exceeds a shareholder's stock basis). The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 3644. Reduction in percentage limitation on assets of REIT which may be taxable REIT subsidiaries.

Current law: Under current law, a REIT generally may not own more than 10 percent of the vote or value of a single entity. However, there is an exception for ownership of taxable REIT subsidiaries (TRSs) that are taxed as corporations, provided the securities of one or more TRSs do not represent more than 25 percent of the value of the REIT's assets. The 25-percent limitation was increased from 20 percent in legislation enacted in 2008.

Provision: Under the provision, the 25-percent TRS stock limitation would be reduced back to 20 percent. The provision would be effective for tax years beginning after 2016.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 3645. Treatment of certain services provided by taxable REIT subsidiaries.

Current law: Under current law, certain income from foreclosed real property satisfies the 95-percent and 75-percent REIT income tests. In addition, REITs are subject to a 100-percent prohibited transactions tax that prohibits REITs from being dealers in real property and limits the number of real property sales that a REIT may conduct.

A TRS generally may engage in any kind of business activity, except that it is not permitted to operate either a lodging or health care facility, although a TRS is permitted to rent certain lodging or health care facilities from its parent REIT and is permitted to hire an independent contractor to operate such facilities. A 100-percent excise tax applies to certain non-arm's length transactions between a TRS and its parent REIT.

Provision: Under the provision, TRSs would be permitted to operate foreclosed real property without causing income from the property to fail to satisfy the REIT income tests. In addition, TRSs would be permitted to develop and market REIT real property without subjecting the REIT to the 100-percent prohibited transactions tax. The provision also would expand the 100-percent excise tax on non-arm's length transactions to include services provided by the TRS to its parent REIT. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 3646. Study relating to taxable REIT subsidiaries.

Current law: Under current law, rents from real property include amounts received or accrued from TRSs, provided both the REIT and the TRS satisfy certain requirements. A TRS generally is permitted to engage in any kind of business activity, but is subject to corporate tax on its taxable income. Legislation enacted in 1999 creating TRSs required the Treasury Department to conduct a study and submit a report to Congress regarding the number of TRSs in existence and the aggregate amount of taxes paid by TRSs.

Provision: Under the provision, the Treasury Department would be required to conduct a biannual study, and submit a report to the Ways and Means Committee and Senate Finance Committee, regarding the number of TRSs in existence, the aggregate amount of taxes paid by TRSs, and the amount by which transactions between TRSs and their parent REITs reduce the taxable income of the TRSs. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3647. C corporation election to become, or transfer assets to, a RIC or REIT.

Current law: Under current law, a REIT or regulated investment company (RIC) that previously operated as a C corporation is subject to an entity-level tax at the highest corporate tax rate on certain built-in gains of property that it held while operating as a C corporation. The tax applies to gain recognized within ten years from the date that the C corporation elected to be a REIT or RIC. For 2013, the period was reduced to five years.

Provision: Under the provision, the current-law entity-level tax on built-in gains would be imposed at the time the C corporation elects to become a REIT or RIC or transfers assets to the REIT or RIC in a carryover basis transaction, without regard to when the gain otherwise would be recognized by the REIT or RIC. The provision would be effective for elections and transfers after February 26, 2014.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 3631 of the discussion draft.

Sec. 3648. Interests in RICs and REITs not excluded from definition of United States real property interests.

Current law: Under current law, the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) imposes tax on dispositions by foreign persons of interests in real property that is

located in the United States. Specifically, FIRPTA treats the gain or loss from such dispositions as effectively connected with a U.S. trade or business. In addition, FIRPTA imposes a 10-percent withholding tax on the gross proceeds from such dispositions. An interest in U.S. real property includes an interest in a U.S. corporation the assets of which, at any time during the five-year period preceding the disposition, have consisted predominantly of U.S. real property. However, an interest in U.S. real property does not include an interest in a U.S. corporation that does not hold any interests in U.S. real property at the time of disposition and, during the five-year period preceding the disposition of an interest in the U.S. corporation by a foreign person, disposed of its interests in U.S. real property in transactions in which the full amount of any gain was recognized for tax purposes.

Provision: Under the provision, the FIRPTA exception for interests in U.S. corporations that have disposed of all of their interests in U.S. real property in taxable transactions during the five-year period preceding disposition of an interest in the U.S. corporation by a foreign person would not apply to interests in REITs or RICs that disposed of their interests in U.S. real property with respect to which the REIT or RIC claimed a dividends paid deduction. The provision would be effective for dispositions after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 3649. Dividends derived from RICs and REITs ineligible for deduction for United States source portion of dividends from certain foreign corporations.

Current law: Under current law, U.S. corporations generally may claim a deduction for dividends received from a 10-percent owned foreign corporation to the extent the dividend is attributable to either (1) income of the foreign subsidiary that is effectively connected with the conduct of a U.S. trade or business, or (2) dividends received by the foreign subsidiary from a U.S. corporation that is at least 80-percent owned by the foreign subsidiary. In addition, RICs and REITs may deduct dividend distributions to their shareholders, although shareholders that are U.S. corporations generally may not claim a deduction for such dividends.

Provision: Under the provision, the deduction for dividends received from a foreign subsidiary would not apply to dividends that are attributable to dividends received by the foreign subsidiary from a RIC or REIT.

The provision would be effective for distributions after February 26, 2014.

JCT estimate: According to JCT, the provisions would increase revenues by \$0.5 billion over 2014-2023.

Part 4 – Personal Holding Companies

Sec. 3661. Exclusion of dividends from controlled foreign corporations from the definition of personal holding company income for purposes of the personal holding company rules.

Current law: Under current law, a tax of 20 percent is imposed on the passive income of certain corporations (in addition to the regular corporate income tax) to prevent the retention of corporate earnings in avoidance of the individual income tax. Corporations are subject to the additional tax if five or fewer individuals own more than 50 percent of the corporation's stock and more than 60 percent of the corporation's income consists of certain types of passive income such as dividends, interest, and royalties. The tax is imposed on such passive income only to the extent the income has not been distributed as a dividend by the corporation. The passive income that is subject to the tax includes dividends that are received by the corporation from any foreign subsidiaries, even if such dividends are derived from an active trade or business of the foreign subsidiary.

Provision: Under the provision, dividends received from a foreign subsidiary would not be subject to the additional 20-percent tax (although they would continue to be subject to the regular corporate income tax). The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Subtitle H – Taxation of Foreign Persons

Sec. 3701. Prevention of avoidance of tax through reinsurance with non-taxed affiliates.

Current law: Under current law, insurance companies generally may deduct premiums paid for reinsurance. If the reinsurance transaction results in a transfer of reserves and reserve assets to the reinsurer, potential tax liability for earnings on those assets is generally shifted to the reinsurer as well. While insurance income of a foreign subsidiary of a U.S. insurance company generally is subject to current U.S. taxation (absent the temporary exception for active financing income), insurance income of a foreign-owned foreign company that is not engaged in a U.S. trade or business generally is not subject to U.S. income tax. Instead, insurance and reinsurance policies issued by foreign insurers and reinsurers with respect to U.S. risks generally are subject to an excise tax, unless waived by treaty. In the case of reinsurance policies, this excise tax is equal to 1 percent of the premium paid.

Provision: Under the provision, U.S. insurance companies would not be permitted to deduct reinsurance premiums paid to a related company that is not subject to U.S. taxation on the premiums, unless the related company elects to treat the premium income as effectively connected to a U.S. trade or business (and thus subject to U.S. tax). However, if the taxpayer demonstrates to the IRS that a foreign jurisdiction taxes the reinsurance premiums at a rate as high as or higher than the U.S. corporate rate, the deduction for the reinsurance premiums would be allowed. Additionally, to match income and deductions, any income from reinsurance

recovered by the U.S. insurance company, as well as any ceding commissions received in connection with a premium deduction that has been disallowed, would not be subject to U.S. tax. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$8.7 billion over 2014-2023.

Sec. 3702. Taxation of passenger cruise gross income of foreign corporations and nonresident alien individuals.

Current law: Under current law, a foreign individual or corporation generally is subject to U.S. tax on income that is effectively connected with the conduct of a U.S. trade or business. However, income derived by a foreign individual or corporation from the international operation of a ship is exempt from U.S. tax if the country in which the individual or corporation is a resident grants an equivalent exemption to U.S. taxpayers. Otherwise, a 4-percent U.S. tax is imposed on U.S.-source gross income from regularly scheduled shipping if the foreign individual or corporation has a fixed place of business in the United States that is involved in earning such income.

Provision: Under the provision, the income of foreign taxpayers that is derived from the operation of passenger cruise ships within U.S. territorial waters would be subject to U.S. tax, without regard to whether the country in which the taxpayer is a resident grants an equivalent exemption to U.S. taxpayers. In addition, the 4-percent U.S. tax on U.S.-source shipping income would apply without regard to whether the shipping is regularly scheduled or the foreign individual or corporation has a fixed place of business in the United States. The provision would be effective for tax years beginning after 2014.

Considerations:

- Over 70 percent of travelers on passenger cruise ships are from the United States, and cruise line companies rely heavily on taxpayer-funded U.S. maritime infrastructure and Coast Guard resources during both normal operations and in the event of emergencies. By flagging their ships in other countries, however, these companies pay little or no U.S. Federal income tax under a long-standing exemption that originally was intended to apply to the transport of cargo and passengers between the United States and other countries.
- According to the U.S. Department of Transportation Maritime Administration, the overall utilization rate for passenger cruise vessels in 2011 exceeded 100 percent, which is primarily a function of cruise lines setting fares to fill ships, so it is unlikely that cruise ship passengers would be affected by this provision through price increases.

JCT estimate: According to JCT, the provision would increase revenues by \$0.9 billion over 2014-2023.

Sec. 3703. Restriction on insurance business exception to passive foreign investment company rules.

Current law: Under current law, U.S. shareholders of a passive foreign investment company (PFIC) are taxed currently on the PFIC's earnings. A PFIC is defined as any foreign corporation (1) 75 percent or more of the gross income of which is passive, and (2) at least 50 percent of the assets of which produce passive income. Among other exceptions, passive income does not include any income that is derived in the active conduct of an insurance business if the PFIC is predominantly engaged in an insurance business and would be taxed as an insurance company were it a U.S. corporation.

Provision: Under the provision, the PFIC exception for insurance companies would be amended to apply only if (1) the PFIC would be taxed as an insurance company were it a U.S. corporation, (2) more than 50 percent of the PFIC's gross receipts for the tax year consist of premiums, and (3) loss and loss adjustment expenses, unearned premiums, and certain reserves constitute more than 35 percent of the PFIC's total assets. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.4 billion over 2014-2023.

Sec. 3704. Modification of limitation on earnings stripping.

Current law: Under current law, a U.S. corporation generally may deduct interest payments, including payments to a related party. However, if the taxpayer's debt-to-equity ratio exceeds 1.5 to 1, interest payments to certain related parties that are not subject to U.S. tax (e.g., foreign corporations) are disallowed to the extent the taxpayer has "excess interest expense," – i.e., net interest expense (interest expense less interest income) in excess of 50 percent of the taxpayer's adjusted taxable income (defined as taxable income without regard to deductions for net interest expense, net operating losses, certain cost recovery, and domestic production activities). Any disallowed interest deductions may be carried forward indefinitely, while any "excess limitation" (the excess of 50 percent of the corporation's adjusted taxable income over the corporation's net interest expense) may be carried forward three years.

Provision: Under the provision, the threshold for excess interest expense would be reduced to 40 percent of adjusted taxable income. In addition, corporations would no longer be permitted to carry forward any excess limitation. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$2.9 billion over 2014-2023.

Sec. 3705. Limitation on treaty benefits for certain deductible payments.

Current law: Under current law, certain payments of fixed or determinable, annual or periodical (FDAP) income – such as interest, dividends, rents, and annuities – to foreign recipients are subject to a statutory 30-percent withholding tax. Income tax treaties between the United States and other countries, however, often reduce or eliminate this withholding tax for payments from one treaty country to residents of the other treaty country.

Provision: Under the provision, if a payment of FDAP income is deductible in the United States and the payment is made by an entity that is controlled by a foreign parent to another entity in a tax treaty jurisdiction that is controlled by the same foreign parent, then the statutory 30-percent withholding tax on such income would not be reduced by any treaty unless the withholding tax would be reduced by a treaty if the payment were made directly to the foreign parent. The provision would be effective for payments made after the date of enactment.

JCT estimate: According to JCT, the provision would increase revenues by \$6.9 billion over 2014-2023.

Subtitle I – Provisions Related to Compensation

Part 1 – Executive Compensation

Sec. 3801. Nonqualified deferred compensation.

Current law: Under current law, compensation generally is taxable to an employee and deductible by an employer in the year earned, with two significant exceptions. First, for compensation provided as part of a qualified defined benefit or defined contribution pension plan, the employee does not take such compensation into income until the year in which a distribution from the plan occurs, while the employer generally may take the deduction in the year the compensation is earned. Second, for non-qualified deferred compensation, the employee does not take such compensation into income until the year received, but the employer's deduction is postponed until that time. The employee generally must take non-qualified deferred compensation into income, however, if the compensation is put into a trust protected from the employer's creditors in bankruptcy as soon as there is no substantial risk of forfeiture with regard to the compensation. In addition, if the employer is located in a jurisdiction in which the employer is not effectively subject to income tax (i.e., certain foreign jurisdictions), the compensation is immediately taxable as soon as it is not subject to a substantial risk of forfeiture. Other rules apply to deferred compensation paid by a State or local government or tax-exempt organization, in which case an employee may defer tax so long as the deferred compensation is less than the limit on employee contributions for 401(k) plans (i.e., \$17,500 for 2014).

Provision: Under the provision, an employee would be taxed on compensation as soon as there is no substantial risk of forfeiture with regard to that compensation (i.e., receipt of the compensation is not subject to future performance of substantial services). The provision would

be effective for amounts attributable to services performed after 2014. The current-law rules would continue to apply to existing non-qualified deferred compensation arrangements until the last tax year beginning before 2023, when such arrangements would become subject to the provision.

Considerations:

- The provision repeals a current-law tax benefit for which only highly compensated employees are generally eligible.
- The provision creates simplicity in an area of taxation that is extremely complex under current law.

JCT estimate: According to JCT, the provision would increase revenues by \$9.2 billion over 2014-2023.

Sec. 3802. Modification of limitation on excessive employee remuneration.

Current law: Under current law, a corporation generally may deduct compensation expenses as an ordinary and necessary business expense. The deduction for compensation paid or accrued with respect to a covered employee of a publicly traded corporation, however, is limited to no more than \$1 million per year. The deduction limitation applies to all remuneration paid to a covered employee for services, including cash and the cash value of all remuneration (including benefits) paid in a medium other than cash, subject to several significant exceptions: (1) commissions; (2) performance-based remuneration, including stock options; (3) payments to a tax-qualified retirement plan; and (4) amounts that are excludable from the executive's gross income.

A covered employee is the chief executive officer (CEO) and the next four highest compensated officers based on the Securities and Exchange Commission (SEC) disclosure rules. Due to changes in the applicable SEC disclosure rules, IRS guidance has interpreted "covered employee" to mean the principal executive officer and the three highest compensated officers as of the close of the tax year.

Provision: Under the provision, the exceptions to the \$1 million deduction limitation for commissions and performance-based compensation would be repealed. The provision also would revise the definition of "covered employee" to include the CEO, the chief financial officer, and the three other highest paid employees, realigning the definition with current SEC disclosure rules. Under the modified definition, once an employee qualifies as a covered person, the deduction limitation would apply for Federal tax purposes to that person so long as the corporation pays remuneration to such person (or to any beneficiaries). The provision would be effective for tax years beginning after 2014.

Considerations:

- The significant exceptions to the current limit on the deductible executive compensation by publicly traded corporations have resulted in a shift away from cash compensation paid to senior executives in favor of stock options and other forms of performance pay.

- This shift has led to perverse consequences as some executives focus on – and could, in rare cases, manipulate – quarterly results (off of which their compensation is determined), rather than on the long-term success of the company.

JCT estimate: According to JCT, the provision would increase revenues by \$12.1 billion over 2014-2023.

Sec. 3803. Excise tax on excess tax-exempt organization executive compensation.

Current law: Under current law, the deduction allowed to publicly traded C corporations for compensation paid with respect to chief executive officers and certain highly paid officers is limited to no more than \$1 million per year. Similarly, current law limits the deductibility of certain severance-pay arrangements (“parachute payments”). No parallel limitation applies to tax-exempt organizations with respect to executive compensation and severance payments.

Provision: Under the provision, a tax-exempt organization would be subject to a 25-percent excise tax on compensation in excess of \$1 million paid to any of its five highest paid employees for the tax year. The excise tax would apply to all remuneration paid to a covered person for services, including cash and the cash value of all remuneration (including benefits) paid in a medium other than cash, except for payments to a tax-qualified retirement plan, and amounts that are excludable from the executive’s gross income.

Once an employee qualifies as a covered person, the excise tax would apply to compensation in excess of \$1 million paid to that person so long as the organization pays him remuneration. The excise tax also would apply to excess parachute payments paid by the organization to such individuals. Under the provision, an excess parachute payment generally would be a payment contingent on the employee’s separation from employment with an aggregate present value of three times the employee’s base compensation or more. The provision would be effective for tax years beginning after 2014.

Considerations:

- Current law generally has no limit on excessive compensation paid by a tax-exempt organization to its senior management other than the limitation on private inurement, the consequence of which can be revocation of the organization’s exemption.
- Tax-exempt organizations enjoy a tax subsidy from the Federal government as a result of the requirement that they use their resources for specific purposes. Some may question whether excessive executive compensation diverts resources from those particular purposes.
- The provision is consistent with the limitation on the deductibility of executive compensation by taxable publicly traded corporations.
- Given that exemption from Federal income tax constitutes a significant benefit conferred upon tax-exempt organizations, the case for discouraging excess compensation paid out to such organizations’ executives may be even stronger than it is for publicly traded companies.

JCT estimate: According to JCT, the provision would increase revenues by \$4.0 billion over 2014-2023.

Sec. 3804. Denial of deduction as research expenditure for stock transferred pursuant to an incentive stock option.

Current law: Under current law, an employer that transfers a share of stock to an individual pursuant to an incentive stock option plan or employee stock purchase plan may not claim a deduction as an ordinary and necessary business expense under Code section 162 for the value of such stock. Some taxpayers have taken the position that notwithstanding the foregoing prohibition, a deduction is permitted as wages paid with respect to research expenditures under Code section 174.

Provision: Under the provision, the rules with respect to incentive stock option plans and employee stock purchase plans would be clarified to deny a deduction under any provision of the Code for a transfer of stock to an individual under such plans. The provision would be effective for stock transferred after February 26, 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Part 2 – Worker Classification

Sec. 3811. Determination of worker classification.

Current law: Under current law, the determination of whether a worker is an employee or an independent contractor is generally made under a common-law facts and circumstances test that seeks to determine whether the worker is subject to the control of the service recipient, not only as to the nature of the work performed, but also as to the circumstances under which it is performed. Various provisions under current law, however, specifically classify a worker as an employee or an independent contractor. For example, certain real estate agents and direct sellers are treated for all tax purposes as independent contractors, while full-time life insurance salesmen are treated as employees only for employment tax and employee benefit purposes. In some cases, salesmen are treated as employees just for employment tax purposes. Under a special safe harbor rule (section 530 of the Revenue Act of 1978), a service recipient may treat a worker as an independent contractor for employment tax purposes, even though the worker may be an employee, if the service recipient has a reasonable basis for treating the worker as an independent contractor and certain other requirements are met.

Provision: Under the provision, workers qualifying for a safe harbor would not be treated as an employee and the service recipient would not be treated as the employer for any Federal tax purpose. The safe harbor also would apply to three-party arrangements in which a payor other than the service recipient pays the worker. To qualify for the safe harbor, the worker would have to satisfy certain sales or service criteria and the worker and service recipient would be required

to have a written agreement meeting specified requirements. In addition, the service recipient would withhold tax on the first \$10,000 of payments made to the worker in a year at a rate of 5 percent. Amounts withheld under the safe harbor would be creditable by the worker against quarterly estimated-tax requirements.

In any case in which the IRS determines that the requirements of the safe harbor were not satisfied, the provision generally would limit the IRS to reclassification of the worker as an employee and service provider as an employer on a prospective basis. To avoid retroactive reclassification, the worker or service provider would have to have satisfied the written agreement and the reporting and withholding requirements of the safe harbor and have had a reasonable basis for claiming that the safe harbor applied.

The provision would be effective for services performed and payments made after 2014.

Considerations:

- Under current law, the IRS uses a subjective 20-factor common law test to determine a worker's status. As a result, businesses – especially small businesses – that hire, and individuals who want to work as, independent contractors, face considerable uncertainty as to whether the IRS will respect that classification.
- In cases where the IRS reclassifies an independent contractor as an employee, often years after the contractor and service recipient entered into their business arrangement, the result can be significant liability for back taxes, interest, and penalties.
- The provision would provide much-needed certainty by providing a safe harbor under which a worker would be classified as an independent contractor if certain objective criteria are met, and the IRS generally would be barred from retroactively reclassifying the independent contractor if a good faith effort were made to qualify for the safe harbor.

JCT estimate: According to JCT, the provision would reduce revenues by \$2.6 billion over 2014-2023.

Subtitle J – Zones and Short-Term Regional Benefits

Sec. 3821. Repeal of provisions relating to Empowerment Zones and Enterprise Communities.

Current law: Under current law, the Secretary of Housing and Urban Development and the Secretary of Agriculture were authorized to designate certain urban and rural areas as Enterprise Communities and Empowerment Zones. Since 1996, Empowerment Zones have replaced Enterprise Communities. The tax benefits available to designated zones included: (1) a 20-percent wage credit available to employers for the first \$15,000 of qualified wages paid to an employee who was a resident and performs substantially all employment services within the Empowerment Zone; (2) expanded tax-exempt financing by State and local governments for certain zone facilities as well as zone academy bonds for certain public schools located in an Empowerment Zone; and (3) deferred recognition of gain on the sale of qualified Empowerment Zone assets held for more than one year and replaced within 60 days by another qualified asset in

the same zone. The Enterprise Community designations generally expired at the end of 2004. The Empowerment Zones designation expired after 2013.

Provision: Under the provision, Enterprise Communities and Empowerment Zones and the associated special tax benefits would be repealed. The provision generally would be effective on the date of enactment, except for sales of qualified Empowerment Zone assets before the date of enactment, and bonds issued before 2014.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3822. Repeal of DC Zone provisions.

Current law: Under current law, certain economically depressed census tracts within the District of Columbia were designated as the District of Columbia Enterprise Zone (DC Zone). Businesses and individual residents within the DC Zone were eligible for special tax incentives generally through the end of 2011. The tax benefits included: (1) a zero-percent capital gains rate with respect to the sale of certain qualified DC Zone assets, provided that the property was held for more than five years; and (2) expanded tax-exempt bond financing for certain zone facilities as well as zone academy bonds for certain public schools located in the zone.

Provision: Under the provision, the DC Zone and the associated special tax incentives would be repealed. The provision generally would be effective on the date of enactment, except for qualifying capital assets and residences acquired, and bonds issued, before 2012.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3823. Repeal of provisions relating to renewal communities.

Current law: Under current law, the Community Renewal Tax Relief Act of 2000 authorized the designation of 40 “Renewal Communities” within which special tax incentives were available generally through the end of 2009. The tax benefits included: (1) up to \$12 million to be allocated by a State to each Renewal Community for commercial revitalization expenditures (i.e., the cost of a new building, or the cost of substantially rehabilitating an existing building, used for commercial purposes and located in a Renewal Community), for which the taxpayer may elect either to deduct one-half of the commercial revitalization expenditures for the tax year the building is placed in service or amortize all the expenditures ratably over a 120-month period; (2) a zero-percent capital gains rate with respect to gain from the sale of certain Renewal Community assets for gains attributable to the period between 2002 and 2014 (inclusive), provided that the property was held for more than five years; and (3) access to zone academy bonds for certain public schools located in an Empowerment Zone.

Provision: Under the provision, the Renewal Communities and the associated special tax incentives would be repealed. The provision generally would be effective on the date of

enactment, except for qualifying assets and property acquired and placed in service, and wages paid or incurred, before 2010.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 3824. Repeal of various short-term regional benefits.

Current law: Under current law, special tax benefits applied to certain designated areas for recovery from specific disasters. In 2002, the New York Liberty Zone was designated to assist with the recovery from the terrorist attacks on September 11, 2001. The tax benefits for the Liberty Zone included: (1) additional 30-percent first-year depreciation for qualified Liberty Zone property placed in service before 2006 (2009 for certain real property); (2) enhanced tax-exempt bond financing for New York Liberty Bonds issued before 2014; and (3) five-year replacement period for compulsory or involuntarily converted Liberty Zone assets as a result of the terrorist attacks.

In 2005, the Gulf Opportunity Zone (GO Zone) was designated to provide relief for areas damaged by Hurricanes Katrina, Rita, and Wilma. The primary tax benefits for these areas included: (1) enhanced tax-exempt bond financing for Gulf Opportunity Zone Bonds issued before 2012; (2) five-year carryback of certain losses resulting from GO Zone damages; (3) increased rehabilitation credit for qualifying expenditures before 2012; (4) special education tax benefits for individuals attending educational institutions in the GO Zone in 2005 and 2006; and (5) certain housing tax benefits for residents of the GO Zone in 2005 and 2006.

Provision: Under the provision, the Liberty Zone and GO Zone designations and the associated special tax benefits would be repealed. The provision generally would be effective on the date of enactment or, if earlier, the date on which the particular tax benefit expires or the date by which the bonds must be issued under current law.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Title IV – Participation Exemption System for the Taxation of Foreign Income

Subtitle A – Establishment of Exemption System

Sec. 4001. Deduction for dividends received by domestic corporations from certain foreign corporations.

Current law: Under current law, U.S. citizens, resident individuals, and domestic corporations generally are taxed on all income, whether earned in the United States or abroad. Foreign income earned by a foreign subsidiary of a U.S. corporation generally is not subject to U.S. tax until the income is distributed as a dividend to the U.S. corporation. To mitigate the double taxation on earnings of the foreign corporation, the United States allows a credit for foreign income taxes paid. The foreign tax credit generally is available to offset, in whole or in part, the U.S. tax owed on foreign income. When foreign tax credits are insufficient to offset the U.S. tax liability on the repatriated earnings, the additional U.S. tax the U.S. corporation must pay is referred to as the “U.S. residual tax.” A U.S. taxpayer may elect to deduct foreign income taxes paid rather than claim the credit.

Provision: Under the provision, the current-law system of taxing U.S. corporations on the foreign earnings of their foreign subsidiaries when these earnings are distributed would be replaced with a dividend-exemption system. Under the exemption system, 95 percent of dividends paid by a foreign corporation to a U.S. corporate shareholder that owns 10 percent or more of the foreign corporation would be exempt from U.S. taxation. No foreign tax credit or deduction would be allowed for any foreign taxes (including withholding taxes) paid or accrued with respect to any exempt dividend. The provision would be effective for tax years of foreign corporations beginning after 2014, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

Considerations:

- The provision would allow U.S. companies to compete on a more level playing field against foreign multinationals when selling products and services abroad.
- The provision would eliminate the “lock-out” effect that results from the U.S. residual tax under current law, which discourages U.S. companies from bringing their foreign earnings back into the United States.

JCT estimate: According to JCT, the provision would reduce revenues by \$212.0 billion over 2014-2023.

Sec. 4002. Limitation on losses with respect to specified 10-percent owned foreign corporations.

Current law: Under current law, any gain that is recognized by a U.S. parent corporation on the sale or exchange of its stock in a foreign subsidiary generally is treated as a dividend distribution

by the foreign subsidiary to its U.S. parent to the extent of earnings and profits (E&P) that have been accumulated by the foreign subsidiary while it had been owned by the U.S. parent.

In some cases, U.S. companies may operate businesses in foreign countries directly through a branch rather than a separate foreign subsidiary. In these situations, U.S. companies pay U.S. taxes on the foreign earnings or deduct losses on a current basis, as if earned directly by the U.S. parent.

Provisions: Under the provision, a U.S. parent would reduce the basis of its stock in a foreign subsidiary by the amount of any exempt dividends received by the U.S. parent from its foreign subsidiary. Such basis reductions would apply only for purposes of determining the amount of a loss (but not the amount of any gain) on any sale or exchange of the foreign subsidiary stock by its U.S. parent. The provision would be effective for dividends received in tax years beginning after 2014.

In addition, if a U.S. corporation transfers substantially all of the assets of a foreign branch to a foreign subsidiary, the U.S. corporation would be required to include in income the amount of any post-2014 losses that previously were incurred by the branch to the extent the U.S. corporation receives exempt dividends from any of its foreign subsidiaries. The provision would be effective for transfers after 2014.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 4001 of the discussion draft.

Sec. 4003. Treatment of deferred foreign income upon transition to participation exemption system of taxation.

Current law: Under current law, U.S. citizens, resident individuals, and domestic corporations generally are taxed on all income, whether earned in the United States or abroad. Foreign income earned by a foreign subsidiary that is owned by a U.S. corporation generally is not subject to U.S. tax until the income is distributed as a dividend to the U.S. corporation. To mitigate the double taxation on earnings of the foreign corporation, the United States allows a credit for foreign income taxes paid. The foreign tax credit generally is available to offset, in whole or in part, the U.S. tax owed on foreign income

Provision: Under the provision, U.S. shareholders owning at least 10 percent of a foreign subsidiary would include in income for their last tax year beginning before 2015 their pro rata share of the post-1986 historical E&P of the foreign subsidiary to the extent such E&P has not been previously subject to U.S. tax. The E&P would be bifurcated into E&P retained in the form of cash, cash equivalents, or certain other short-term assets, and E&P that has been reinvested in the foreign subsidiary's business (property, plant and equipment). The portion of the E&P that consists of cash or cash equivalents would be taxed at a special rate of 8.75 percent, while any remaining E&P would be taxed at a special rate of 3.5 percent. Foreign tax credits would be partially available to offset the U.S. tax.

At the election of the U.S. shareholder, the tax liability would be payable over a period of up to eight years, based on a schedule of 8 percent of the net tax liability in each of the first 5 years; 15 percent in the sixth year; 20 percent in the seventh year and 25 percent in the eighth year. The tax revenues generated directly by this one-time tax on accumulated E&P would be deposited into the Highway Trust Fund (HTF) as the revenues are received from taxpayers. Consistent with the current allocation of fuel excise tax revenues between the Highway Account and the Mass Transit Account in the HTF, 80 percent of the revenues raised by this provision would be allocated to the Highway Account, and 20 percent of the revenues would be allocated to the Mass Transit Account.

If the U.S. shareholder is an S corporation, the provision would not apply until the S corporation ceases to be an S corporation, substantially all of the assets of the S corporation are sold or liquidated, the S corporation ceases to exist or conduct business, or stock in the S corporation is transferred.

The provision would be effective for tax years of foreign corporations beginning after 2014, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

Considerations:

- The provision would provide \$126.5 billion of revenue for the Highway Trust Fund to address the deep funding shortfall that currently exists for Federal transportation infrastructure projects, enough to eliminate the cumulative shortfall in the trust fund through 2021.
- The provision would eliminate the need for U.S. companies to separately track E&P that was accumulated by their foreign subsidiaries prior to adoption of the dividend-exemption system, so that all distributions from foreign subsidiaries would be treated in the same manner under the dividend-exemption system.
- The provision would moderate the tax burden on illiquid accumulated E&P that has been reinvested in the foreign subsidiary's business.

JCT estimate: According to JCT, the provision would increase revenues by \$170.4 billion over 2014-2023, \$126.5 billion of which would be attributable directly to the one-time tax on accumulated E&P, with the remainder attributable to indirect revenue effects.

Sec. 4004. Look-thru rule for related controlled foreign corporations made permanent.

Current law: Under current law, a U.S. parent of a foreign subsidiary generally is subject to current U.S. tax on dividends, interest, royalties, rents, and other types of passive income earned by the foreign subsidiary, regardless of whether the foreign subsidiary distributes such income to the U.S. parent. However, for tax years of foreign subsidiaries beginning before 2014, and tax years of U.S. shareholders in which or with which such tax years of the foreign subsidiary end, a special "look-through" rule provided that passive income received by one foreign subsidiary from a related foreign subsidiary generally was not includible in the taxable income of the U.S.

parent, provided such income was not subject to current U.S. tax or effectively connected with a U.S. trade or business.

Provision: Under the provision, the look-through rule would be made permanent. The provision would be effective for tax years of foreign corporations beginning after 2013, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

JCT estimate: According to JCT, the provision would reduce revenues by \$13.1 billion over 2014-2023.

Subtitle B – Modifications Related to Foreign Tax Credit System

Sec. 4101. Repeal of section 902 indirect foreign tax credits; determination of section 960 credit on current year basis.

Current law: Under current law, foreign income earned by a foreign subsidiary of a U.S. corporation generally is not subject to U.S. tax until the income is distributed as a dividend to the U.S. corporation. To mitigate the double taxation on earnings of the foreign corporation, the United States allows a credit for foreign income taxes paid. The foreign tax credit generally is available to offset, in whole or in part, the U.S. tax owed on foreign-source income.

Under certain circumstances, the U.S. parent corporation is subject to U.S. tax on certain foreign income of its foreign subsidiaries (“subpart F income”) even if the income is not repatriated. A U.S. parent corporation generally may claim a credit for foreign taxes paid on the subpart F income.

Provision: Under the provision, no foreign tax credit or deduction would be allowed for any taxes (including withholding taxes) paid or accrued with respect to any dividend to which the dividend exemption under section 4001 of the discussion draft would apply. A foreign tax credit would be allowed for any subpart F income that is included in the income of the U.S. shareholder on a current year basis, without regard to pools of foreign earnings kept abroad. The provision would be effective for tax years of foreign corporations beginning after 2014 and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 4001 of the discussion draft.

Sec. 4102. Foreign tax credit limitation applied by allocating only directly allocable deductions to foreign source income.

Current law: Under current law, a portion of expenses incurred in the United States by a U.S. parent of a foreign subsidiary that are not directly attributable to income earned by the foreign subsidiary must be allocated against foreign-source income for purposes of calculating the U.S. parent’s foreign-source income. The allocation of these expenses to foreign-source income

reduces the amount of foreign tax credits a U.S. parent may use to reduce its U.S. tax on foreign-source income. Some of the expenses that are allocated include stewardship expenses, general and administrative expenses, and interest expenses.

Provision: Under the provision, only expenses that are directly attributable to income earned by a foreign subsidiary would be allocated against foreign-source income for purposes of calculating the U.S. parent's foreign-source income and the amount of foreign tax credits the U.S. parent may use to reduce its U.S. tax on foreign-source income. Directly allocable deductions include items such as salaries of sales personnel, supplies, and shipping expenses directly related to the production of foreign-source income. The provision would be effective for tax years of foreign corporations beginning after 2014, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 4001 of the discussion draft.

Sec. 4103. Passive category income expanded to include other mobile income.

Current law: Under current law, income earned by foreign subsidiaries is categorized as either active or passive income. Passive income generally includes (but is not limited to) dividends, rents, royalties and capital gains. Additionally, the foreign taxes paid on the income are separated into active and passive baskets. Only foreign taxes paid on passive income may be taken into account in determining the amount of foreign tax credits that may be claimed against U.S. tax on passive income.

Provision: Under the provision, the use of foreign tax credits would be restricted to two baskets: mobile and active. The mobile basket would include certain related-party sales income, foreign intangible income, and current-law passive income. The active basket would include all other income. The provision would be effective for tax years of foreign corporations beginning after 2014, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 4211 of the discussion draft.

Sec. 4104. Source of income from sales of inventory determined solely on basis of production activities.

Current law: Under current law, in determining the source of income for foreign tax credit purposes, up to 50 percent of the income from the sale of inventory property that is produced within the United States and sold outside the United States (or vice versa) may be treated as foreign-source income, even though the production activity takes place entirely within the United States.

Provision: Under the provision, income from the sale of inventory property produced within and sold outside the United States (or vice versa) would be allocated and apportioned between sources within and outside the United States solely on the basis of the production activities with respect to the inventory. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.8 billion over 2014-2023.

Subtitle C – Rules Related to Passive and Mobile Income

Part 1 – Modification of Subpart F Provisions

Sec. 4201. Subpart F income to only include low-taxed foreign income.

Current law: Under current law, a U.S. parent of a foreign subsidiary is subject to current U.S. tax on certain income of the foreign subsidiary (“subpart F income”), regardless of whether or not the income is distributed to the U.S. parent. Subpart F income generally includes certain forms of passive and highly mobile income that are easily transferred to subsidiaries in low-tax countries. Examples of subpart F income include dividends, interest, rents, royalties, and certain related-party sales or services transactions. If, however, the subpart F income has been taxed at a rate that is at least 90 percent of the U.S. tax rate (i.e., 31.5 percent for C corporations), then the U.S. parent may elect to treat that income as non-subpart F income.

Provision: Under the provision, the 90-percent threshold for treating foreign income as subpart F income would be increased to 100 percent (i.e., 25 percent for C corporations) for foreign personal holding company income. For foreign base company sales income, however, the threshold would be reduced to 50 percent of the U.S. rate (i.e., 12.5 percent for C corporations) and to 60 percent of the U.S. rate (i.e., 15 percent) for foreign base company intangible income. In addition, such treatment would no longer be elective. The provision would be effective for tax years of foreign corporations beginning after 2014, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 4211 of the discussion draft.

Sec. 4202. Foreign base company sales income.

Current law: Under current law, a U.S. parent of a foreign subsidiary is subject to current U.S. tax under subpart F on income earned by the foreign subsidiary from certain related-party sales transactions (“foreign base company sales income” or FBCSI), regardless of whether the foreign subsidiary distributes such income to the U.S. parent. In general, FBCSI is income earned by a foreign subsidiary from buying or selling personal property from or to, or on behalf of, related persons if the property is (1) manufactured, produced, grown or extracted outside of the country

in which the foreign subsidiary is organized, and (2) used, consumed, or disposed of outside of such country.

Provision: Under the provision, FBCSI no longer would include income earned by a foreign subsidiary that is incorporated in a country that has a comprehensive income tax treaty with the United States, or to income that has been taxed at an effective tax rate of 12.5 percent or greater. The provision would be effective for tax years of foreign corporations beginning after 2014, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 4211 of the discussion draft.

Sec. 4203. Inflation adjustment of de minimis exception for foreign base company income.

Current law: Under current law, a U.S. parent of a foreign subsidiary is subject to current U.S. tax under subpart F on FBCSI and foreign income from issuing (or reinsuring) insurance or annuity contracts, regardless of whether the foreign subsidiary distributes such income to the U.S. parent. However, a de minimis rule states that if the gross amount of such income is less than the lesser of 5 percent of the foreign subsidiary's gross income or \$1 million, then the U.S. parent is not subject to current U.S. tax on any of the income. The \$1 million threshold is not adjusted for inflation.

Provision: Under the provision, the \$1 million threshold would be adjusted for inflation. The provision would be effective for tax years of foreign corporations beginning after 2014 and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

JCT estimate: The revenue effect of the provision over 2014-2023 is included in the JCT estimate provided for section 4211 of the discussion draft.

Sec. 4204. Active finance exception extended with limitation for low-taxed foreign income.

Current law: Under current law, a U.S. parent of a foreign subsidiary generally is subject to current U.S. tax under subpart F on dividends, interest, royalties, rents, and other types of passive income (collectively "foreign personal holding company income") earned by the foreign subsidiary, regardless of whether the foreign subsidiary distributes such income to the U.S. parent. However, for tax years of foreign subsidiaries beginning before 2014, and tax years of U.S. shareholders in which or with which such tax years of the foreign subsidiary end, there was a temporary exception for such income if it was derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business ("active financing income").

Provision: Under the provision, the exception would be extended for five years for active financing income that is subject to a foreign effective tax rate of 12.5 percent or higher. Active

financing income that is subject to a lower foreign tax rate would not be exempt, but would be subject to a reduced U.S. tax rate of 12.5 percent, before the application of foreign tax credits. The provision would be effective for tax years of foreign corporations beginning after 2013 and before 2019, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

JCT estimate: According to JCT, the provision would reduce revenues by \$18.4 billion over 2014-2023.

Sec. 4205. Repeal of inclusion based on withdrawal of previously excluded subpart F income from qualified investment.

Current law: Foreign shipping income earned between 1976 and 1986 was not subject to current U.S. tax under subpart F if the income was reinvested in certain qualified shipping investments. Such income becomes subject to current U.S. tax in a subsequent year to the extent that there is a net decrease in qualified shipping investments during that subsequent year.

Provision: Under the provision, the imposition of current U.S. tax on previously excluded foreign shipping income of a foreign subsidiary if there is a net decrease in qualified shipping investments would be repealed. The provision would be effective for tax years of foreign corporations beginning after 2014, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Part 2 – Prevention of Base Erosion

Sec. 4211. Foreign intangible income subject to taxation at reduced rate; intangible income treated as subpart F income.

Current law: Under current law, a U.S. parent of a foreign subsidiary is subject to current U.S. tax on its pro rata share of the subsidiary's subpart F income, regardless of whether the income is distributed to the U.S. parent. In addition, income earned by the U.S. parent directly for the use of its intangibles exploited abroad, usually in the form of royalties, is subject to U.S. tax upon receipt of the income. Under the transfer pricing rules, however, if a foreign subsidiary of the U.S. parent owns intangible property in a foreign jurisdiction, the U.S. parent generally may allocate substantial profits to the foreign subsidiary without violating the subpart F rules, thus deferring U.S. tax on those profits until they are distributed to the U.S. parent.

Provision: Under the provision, a U.S. parent of a foreign subsidiary would be subject to current U.S. tax on a new category of subpart F income, "foreign base company intangible income" (FBCII). FBCII would equal the excess of the foreign subsidiary's gross income over

10 percent of the foreign subsidiary's adjusted basis in depreciable tangible property (excluding income and property that are related to commodities).

The U.S. parent could claim a deduction equal to a percentage of the foreign subsidiary's FBCII that relates to property that is sold for use, consumption, or disposition outside the United States or to services that are provided outside the United States. The deduction also would be available to U.S. corporations that earn foreign intangible income directly (rather than through a foreign subsidiary). The deductible percentage of FBCII and foreign intangible income would be 55 percent for tax years beginning in 2015, and would phase down (in conjunction with the phase-in of the 25-percent corporate rate) to 52 percent in 2016, 48 percent in 2017, 44 percent in 2018, and 40 percent for tax years beginning in 2019 or later.

With regard to the treatment of FBCII as subject to current U.S. tax, the provision would be effective for tax years of foreign corporations beginning after 2014, and for tax years of U.S. shareholders in which or with which such tax years of foreign subsidiaries end. With regard to the deduction of a percentage of such income, the provision would be effective for tax years beginning after 2014.

Considerations:

- Under current law, the allocation of income by U.S. companies to intangible property that is located in low-tax or no-tax jurisdictions (through migration out of the United States or otherwise) is an acute source of erosion of the U.S. tax base.
- The adoption of a dividend exemption international tax system could, on its own and without appropriate safeguards, exacerbate this incentive by allowing profits that have been shifted to be repatriated with minimal U.S. tax consequences.
- The provision would remove tax incentives to locate intangible property in low-tax or no-tax jurisdictions by providing neutral tax treatment of income attributable to intangible property, regardless of whether such property is located within or outside the United States.
- At the same time, the provision would provide a reduced U.S. tax rate on such income to the extent derived from foreign customers in recognition that it is difficult to identify precisely when the allocation of income to intangible property in foreign jurisdictions results in erosion of the U.S. tax base.
- The provision includes a significant refinement to the international tax reform discussion draft released by the Committee on October 26, 2011 by providing a simplified approach to calculating income that is subject to the provision, in effect exempting normal returns on investments in tangible property.

JCT estimate: According to JCT, the provision, along with sections 4103, 4201, 4202, and 4203 of the discussion draft, would increase revenues by \$115.6 billion over 2014-2023.

Sec. 4212. Denial of deduction for interest expense of United States shareholders which are members of worldwide affiliated groups with excess domestic indebtedness.

Current law: Under current law, corporations generally may deduct all of their interest expense even if the debt was acquired to capitalize foreign subsidiaries. Expense allocation rules, however, may require the interest expense to be allocated against foreign source income, which may limit the amount of foreign tax credits the U.S. parent may utilize.

Provision: Under the provision, the deductible net interest expense of a U.S. parent of one or more foreign subsidiaries would be reduced by the lesser of the extent to which (1) the indebtedness of the U.S. parent (including other members of the U.S. consolidated group) exceeds 110 percent of the combined indebtedness of the worldwide affiliated group (including both related domestic and related foreign entities), or (2) net interest expense exceeds 40 percent of the adjusted taxable income of the U.S. parent. Any disallowed interest expense could be carried forward to a subsequent tax year. The provision would be effective for tax years beginning after 2014.

Considerations:

- While reducing the corporate tax rate would reduce the incentive for U.S. companies to maintain excessive leverage, it is important to provide measures to discourage excessive leverage directly in conjunction with the adoption of a dividend-exemption system.
- The provision would prevent U.S. companies from generating excessive interest deductions in the United States on debt that is incurred to produce exempt foreign income in a dividend-exemption system.
- The provision recognizes standard non-tax business practices that involve parent corporations incurring debt to finance the acquisition or establishment of foreign subsidiaries by (1) allowing the U.S. group to have 10 percent more leverage than the worldwide group, and (2) providing an indefinite carryforward of disallowed interest expense.

JCT estimate: According to JCT, the provision would increase revenues by \$24.0 billion over 2014-2023.

Title V – Tax Exempt Entities

Considerations for Title V:

- The Ways and Means Oversight Subcommittee, in numerous hearings in the 112th and 113th Congresses, has explored a variety of issues involving tax-exempt entities and public charities. In particular, the Subcommittee has learned that public charities are engaging in more commercial activities than ever before and are using more complex organizational structures to do so. Many organizations, such as AARP, are now earning significant profits licensing their own names to for-profit businesses (which is not taxable to an exempt organization) to avoid engaging in an active trade or business themselves. In addition, the IRS issued a report detailing how colleges and universities were abusing the unrelated business income tax (UBIT) rules by using loss-generating business activities to shelter gain from profitable businesses. The discussion draft would modify the UBIT rules to address these and similar loopholes.
- Another issue that has arisen in testimony is the potential for non-compliance within the tax-exempt sector. The discussion draft would address these issues by clarifying that a tax-exempt organization should, in general, either be a private foundation or a public charity. This would encourage greater transparency while still preserving diversity and innovation in the tax-exempt sector.
- The net investment excise tax on private foundations has long been a source of confusion and frustration for taxpayers. Private foundations, both large and small, recommended to the Committee's Tax Reform Working Group on Charitable/Exempt Organizations that the net investment tax be reduced to a flat 1 percent to ease compliance. The discussion draft would adopt this recommendation to ease the administrative burden on foundations and encourage more funding of charitable activities.

Subtitle A – Unrelated Business Income Tax

Sec. 5001. Clarification of unrelated business income tax treatment of entities treated as exempt from taxation under section 501(a).

Current law: Under current law, income derived from a trade or business regularly carried on by an organization exempt from tax under Code section 501(a) (including pension plans) that is not substantially related to the performance of the organization's tax-exempt functions is subject to the unrelated business income tax (UBIT). The highest corporate rate is applied to unrelated business income. A college or university that is an agency or instrumentality of a State government (or political subdivision) generally is subject to UBIT on any unrelated business taxable income. It is unclear, however, whether certain State and local entities (such as public pension plans) that are exempt under Code section 115(l) as government-sponsored entities as well as section 501(a) are subject to the UBIT rules.

Provision: Under the provision, all entities exempt from tax under section 501(a), notwithstanding the entity's exemption under any other provision of the Code, would be subject to the UBIT rules. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 5002. Name and logo royalties treated as unrelated business taxable income.

Current law: Current law designates certain activities as *per se* unrelated trades or businesses for UBIT purposes, including advertising activities and debt management plan services.

Provision: Under the provision, any sale or licensing by a tax-exempt organization of its name or logo (including any related trademark or copyright) would be treated as a *per se* unrelated trade or business, and royalties paid with respect to such licenses would be subject to UBIT. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.8 billion over 2014-2023.

Sec. 5003. Unrelated business taxable income separately computed for each trade or business activity.

Current law: Under current law, income subject to UBIT is based on the gross income of any unrelated trade or business less the deductions directly connected with carrying on such activity. In cases where a tax-exempt organization conducts two or more unrelated trades or businesses, the unrelated business taxable income is the aggregate gross income of all the unrelated trades or businesses less the aggregate deductions allowed with respect to all such unrelated trades or businesses. As a result, losses generated by one unrelated trade or business may be used to offset income derived from another unrelated trade or business.

Provision: Under the provision, a tax-exempt organization would be required to calculate separately the net unrelated taxable income of each unrelated trade or business. In addition, any loss derived from an unrelated trade or business could only be used to offset income from that unrelated trade or business, with any unused loss subject to the general rules for net operating losses – i.e., such losses may be carried back two years and carried forward 20 years. Thus, losses generated by one unrelated trade or business could not be used to offset income derived from another unrelated trade or business. The provision would generally be effective for tax years beginning after 2014. However, NOLs generated prior to 2015 may be carried forward to offset income from any unrelated trade or business, but NOLs generated after 2014 may only be carried back to offset income with respect to the unrelated trade or business from which the net operating loss arose.

JCT estimate: According to JCT, the provision would increase revenues by \$3.2 billion over 2014-2023.

Sec. 5004. Exclusion of research income limited to publicly available research.

Current law: Under current law, income derived from a research trade or business is exempt from UBIT in the following cases: (1) research performed for the United States (including agencies and instrumentalities) or any State (or political subdivision); (2) research performed by a college, university or hospital for any person; and (3) research performed by an organization operated primarily for the purposes of carrying on fundamental research the results of which are freely available to the general public.

Provision: Under the provision, the exception from the UBIT rules for fundamental research would be limited to income derived from the research made available to the public. Thus, income from research not made publicly available would be treated as unrelated trade or business income and subject to the UBIT rules. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.7 billion over 2014-2023.

Sec. 5005. Parity of charitable contribution limitation between trusts and corporations.

Current law: Under current law, for purposes of determining unrelated business taxable income subject to UBIT, an organization may deduct contributions made to other organizations. If the contributing tax-exempt entity is organized as a corporation, the charitable contribution deduction is limited to 10 percent of the entity's unrelated business taxable income – the same limitation that applies to corporations. But, if the contributing tax-exempt entity is organized as a trust, the deduction is limited to 50 percent of the entity's unrelated business taxable income – the same limitation that applies to individuals.

Provision: Under the provision, charitable contributions for purposes of determining UBIT would be limited to 10 percent of the unrelated business taxable income whether the contributing entity is organized as a corporation or a trust. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 5006. Increased specific deduction.

Current law: Under current law, UBIT is based on the gross income of any unrelated trade or business less the deductions directly connected with carrying on such activity. However, all tax-exempt organizations may claim a \$1,000 deduction against gross income subject to UBIT.

Provision: Under the provision, the deduction would be increased to \$10,000. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by \$0.3 billion over 2014-2023.

Sec. 5007. Repeal of exclusion of gain or loss from disposition of distressed property.

Current law: Under current law, UBIT is based on the gross income of any unrelated trade or business, including gains or losses from the sale, exchange, or other disposition of inventory. An exception to the inclusion of such gains or losses applies to certain real property acquired by the tax-exempt organization from a bank or savings and loan association that held the property in receivership or conservatorship or as a result of a foreclosure. To qualify, the tax-exempt organization generally may not expend substantial amounts to improve or develop the distressed property and must dispose of such property within 30 months of acquisition.

Provision: Under the provision, the UBIT exception for acquisitions of distressed property would be repealed. Accordingly, a tax-exempt organization would be required to include in its unrelated trade or business income gain or loss resulting from the sale of such property to customers. The provision would be effective for property acquired after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 5008. Qualified sponsorship payments.

Current law: Under current law, for purposes of the UBIT rules, an unrelated trade or business does not include the activity of soliciting and receiving qualified sponsorship payments. A qualified sponsorship payment generally is any payment made by a business sponsor with respect to which the business receives no substantial return benefit other than the use or acknowledgment of the name or logo (or product lines) of the business in connection with the tax-exempt organization's activities. Such a use or acknowledgment does not include advertising of such sponsor's products or services (i.e., qualitative or comparative language, price information or other indications of savings or value, or an endorsement or other inducement to purchase, sell, or use such products or services).

Provision: Under the provision, the UBIT exception for qualified sponsorship payments would be modified in two respects. First, if the use or acknowledgement refers to any of the business sponsor's product lines, the payment would not be a qualified sponsorship payment, and, therefore, would be treated by the tax-exempt organization as income from an advertising trade or business – which is a *per se* unrelated trade or business. Second, if a tax-exempt organization receives more than \$25,000 of qualified sponsorship payments for any one event, any use or acknowledgement of a sponsor's name or logo may only appear with, and, in substantially the same manner as, the names of a significant portion of the other donors to the event. Whether the number of donors is a significant portion is determined based on the total number of donors and the total contributions to the event, but in no event shall fewer than 2 other donors be treated as a

significant portion of other donors. Thus, a single business could not be listed as an exclusive sponsor of an event that generates more the \$25,000 in qualified sponsorship payments. Such a contribution would be treated as advertising income by the tax-exempt organization and subject to UBIT. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Subtitle B – Penalties

Sec. 5101. Increase in information return penalties.

Current law: Under current law, tax-exempt organizations are required to file certain information returns each year depending on their exempt status. If a tax-exempt organization does not timely and completely file a required information return (e.g., Form 990) or does not furnish the correct information, it must pay \$20 for each day the failure continues (\$100 a day for organizations with annual gross receipts exceeding \$1 million). The maximum penalty for each return may not exceed the lesser of \$10,000 (\$50,000 for a large organization) or 5 percent of the gross receipts of the organization for the year. Penalties also apply to information required of tax-exempt trusts and in certain other cases, such as when a tax-exempt organization dissolves or liquidates all or part of its assets. Exceptions from these penalties apply where the organization can show the failure was due to reasonable cause. There also are penalties for willful failures and for filing fraudulent returns and statements. A manager of an organization subject to these penalties who fails to respond to a written demand from the IRS to file an information return by a date certain is required to pay a penalty of \$10 for each day after the deadline has passed, limited to a maximum of \$5,000.

A manager or other person who fails to allow for the public inspection of a tax-exempt organization's annual returns and other publicly available documents is subject to a penalty of \$20 for each day the failure continues, limited to a maximum of \$10,000. An identical penalty and overall limitation also applies to a section 527 organization that fails to make required disclosures or fails to show any information required to be shown by such disclosures or to show the correct information. In addition, a person who fails to allow the public inspection of an entity's exempt status application materials or notice materials is subject to a penalty of \$20 for each day such failure continues, with no overall limitation.

In addition, a trust is subject a penalty of \$10 a day for failure to file an information return. Any organization that was tax exempt in any of the five years preceding a liquidation, dissolution, termination, or substantial contraction is subject to a penalty of \$10 a day for failure to file a final return. In both cases, the maximum penalty cannot exceed \$5,000. However, a trust with gross income in excess of \$250,000 is subject to a penalty of \$100 a day and a maximum fine of \$50,000. Furthermore, a manager of an organization subject to these penalties who fails to respond to a written demand from the IRS to file a required return by a date certain is subject to a fine of \$10 for each day after the deadline has passed, limited to maximum of \$5,000.

A tax-exempt organization also is subject to a penalty of \$100 per day for each day the entity fails to file the required disclosure of its participation in any prohibited tax shelter transaction and the identity of any other known party to such transaction.

Provision: Under the provision, the penalties for failure to file various returns, disclosures, or public documents on organizations and managers would be increased. The penalty for a tax-exempt organization's failure to file an information return would be increased from \$20 to \$40 per day. For an organization with more than \$1 million in gross receipts, the penalty would be increased from \$100 to \$200 per day. For a manager of such an organization, the penalty would be increased from \$10 to \$20 per day. In the case of a person who fails to allow for the public inspection of a tax-exempt organization's annual returns and other publicly available documents, the penalty would be increased from \$20 to \$40 per day. The penalty for failure to allow for the public inspection of an entity's exempt status application or notice materials would also be increased from \$20 to \$40 per day. In the case of trust or a terminating tax-exempt organization, the penalty would be increased from \$10 to \$20 per day. The penalty for a trust with gross income in excess of \$250,000 would be increased from \$100 to \$200 per day, and the penalty for the manager of a trust or terminating exempt entity would also be increased from \$10 to \$20 per day. The penalty for failure to file a tax-shelter disclosure form would be increased from \$100 to \$200 per day. The provision would be effective for information returns required to be filed on or after January 1, 2015.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 5102. Manager-level accuracy-related penalty on underpayment of unrelated business income tax.

Current law: Under current law, individuals and corporations are subject to a 20-percent accuracy-related penalty with respect to the portion of an underpayment that is attributable to any substantial understatement of income tax. The accuracy-related penalty may be reduced or abated in certain cases.

A separate accuracy-related penalty applies to a reportable transaction or a listed transaction. A reportable transaction is defined as one that the IRS determines must be disclosed because it has a potential for tax avoidance or evasion. A listed transaction is a reportable transaction that is specifically identified by the IRS as a tax avoidance transaction (or substantially similar to such a tax avoidance transaction). The penalty rate for reportable and listed transactions that are disclosed by the taxpayer is 20 percent, while the penalty rate for an undisclosed transaction is 30 percent. Defenses available to avoid the penalty vary depending on whether the transaction was adequately disclosed.

Tax-exempt organizations subject to UBIT must file a return each year (Form 990-T), reporting unrelated business taxable income. Under current law, the 20-percent accuracy-related penalty and the penalty for reportable transactions and listed transactions apply to tax-exempt organizations, but only at the entity level. No manager-level penalty applies in such cases,

unlike other penalties under current law that impose a penalty on both the tax-exempt organization and its managers (e.g., penalties applicable to public charities with respect to excess-benefit transactions and penalties on private foundations relating to self-dealing).

Provision: Under the provision, a 5-percent penalty would apply to managers of a tax-exempt organization when an accuracy-related penalty is applied to the organization for any substantial understatement of UBIT. The manager-level penalty would be limited to \$20,000. The provision also would apply a 10-percent penalty on managers of a tax-exempt organization for an understatement of UBIT relating to a reportable transaction or listed transaction. The manager-level penalty for reportable transactions and listed transactions would be limited to \$40,000. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Subtitle C – Excise Taxes

Sec. 5201. Modification of intermediate sanctions.

Current law: Under current law, disqualified persons and managers who engage in excess benefit transactions with tax-exempt organizations (other than private foundations) are subject to an excise tax on the amount of the economic benefit that exceeds the value of the consideration (including the performance of services) received for providing the benefit. A disqualified person (other than a manager acting only in that capacity) is subject to a 25-percent excise tax, and, if such tax is imposed, a manager who knowingly participated in the transaction (unless such participation was not willful and due to reasonable cause) is subject to a 10-percent excise tax. However, under Treasury regulations, a manager may avoid the excise tax for knowingly participating in an excess-benefit transaction if the manager relies on advice provided by an appropriate professional, including legal counsel, certified public accountants, and independent valuation experts.

A disqualified person generally is any person in a position to exercise substantial influence over the affairs of the public charity (e.g., officers, directors, or trustees) at any time in the five-year period before the excess-benefit transaction occurred. In the case of donor advised funds, the donor and donor advisors are specifically designated as disqualified persons, and in the case of a supporting organization, its investment advisors are disqualified persons. A disqualified person also includes certain family members of such a person, and certain entities that satisfy a control test with respect to such persons.

Under Treasury regulations, a tax-exempt organization in certain cases may avail itself of a rebuttable presumption with respect to compensation arrangements and property transfers for purposes of determining if the excise tax applies. If the requirements of the rebuttable presumption are met, the IRS may overcome the presumption of reasonableness if it develops sufficient contrary evidence to rebut the comparability data relied upon by the authorized body.

Provision: Under the provision, the excise tax on excess-benefit transaction would be expanded to apply not only to public charities, but also to labor, agricultural, and horticultural organizations (under Code section 501(c)(5)) and business leagues, chambers of commerce, real-estate boards, and boards of trade (under Code section 501(c)(6)).

The provision would impose an excise tax of 10 percent on the tax-exempt organization when the excess-benefit excise tax is imposed on a disqualified person. The entity-level tax would be avoidable if the organization follows minimum standards of due diligence or other procedures to ensure that no excess benefit is provided by the organization to a disqualified person. The minimum standards of due diligence would be satisfied if the transaction was approved by an independent body of the organization that relied on comparability data prior to approval and documented the basis for approving the transaction. The provision would overrule the Treasury regulations by providing that no presumption of reasonableness is created by the organization satisfying the minimum standards of due diligence for purposes of imposing the excise tax on disqualified persons and managers.

Additionally, managers would no longer be able to rely on the professional advice safe harbor under Treasury regulations. Thus, a manager's reliance on professional advice, by itself, would not preclude the manager from being subject to the excise tax for participating in an excess-benefit transaction.

The provision also would expand the definition disqualified persons to include athletic coaches and investment advisors regardless of whether the investment advisor provides services to a supporting organization.

The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 5202. Modification of taxes on self-dealing.

Current law: Under current law, disqualified persons and managers who engage in self-dealing transactions with private foundations are subject to an excise tax. Self-dealing transactions between a private foundation and a disqualified person generally include: (1) a sale or exchange, or leasing, of property; (2) lending of money or other extension of credit; and (3) the transfer to, or use by or for the benefit of, a disqualified person of the income or assets of the private foundation. The excise tax is imposed on the very act of self-dealing, irrespective of whether fair market value is paid (except for the payment of compensation, which is permitted at fair market value). The tax is imposed on the entire amount involved in the transaction (except for the payment of compensation, with respect to which the tax is imposed on compensation in excess of fair market value).

A disqualified person is subject to an excise tax of 10 percent of the value of a self-dealing transaction. If such a tax is imposed on a disqualified person, a tax of 5 percent of the amount

involved is imposed on a foundation manager who knowingly participated in the act of self-dealing (unless such participation was not willful and was due to reasonable cause) up to \$10,000 per act. If the act of self-dealing is not corrected, a tax of 200 percent of the amount involved is imposed on the disqualified person and a tax of 50 percent of the amount involved (up to \$10,000 per act) is imposed on a foundation manager who refused to agree to correct the act of self-dealing. However, under Treasury regulations, a private foundation manager may avoid the excise tax for knowingly participating in a self-dealing transaction if the manager relies on advice provided by an appropriate professional, including legal counsel, certified public accountants, and independent valuation experts.

A disqualified person generally is any person in a position to exercise substantial influence over the affairs of the private foundation (e.g., officers, directors, or trustees). A disqualified person also includes certain family members of such a person, and certain entities that satisfy a control test with respect to such persons.

Provision: Under the provision, an excise tax of 2.5 percent would be imposed on a private foundation when the self-dealing tax is imposed on a disqualified person. The tax rate would be 10 percent for cases in which the self-dealing involves the payment of compensation.

Additionally, foundation managers would no longer be able to rely on the professional advice safe harbor. Thus, a manager's reliance on professional advice, by itself, would not preclude the manager from being subject to the excise tax for participating in a self-dealing transaction.

The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 5203. Excise tax on failure to distribute within 5 years contribution to donor advised fund.

Current law: Under current law, public charities (including community foundations) exempt from tax under Code section 501(c)(3) are permitted to establish accounts to which donors may contribute and thereafter provide nonbinding advice or recommendations with regard to distributions from the fund or the investment of assets in the fund. Such accounts are commonly referred to as "donor advised funds." Donors who make contributions to charities sponsoring such funds generally may claim a charitable contribution deduction at the time of the contribution, even though the contributed funds may be held in the account without distribution for significant periods. While the sponsoring charities generally must have legal ownership and control over the funds held in a donor advised fund, there is no requirement that the funds be distributed to other charitable organizations within any period of time. Donor advised funds also are not subject to the private foundation net investment excise tax.

Provision: Under the provision, donor advised funds would be required to distribute contributions within five years of receipt. An eligible distribution is a distribution made to a

public charity. Failure to make an eligible distribution would subject the sponsoring charitable organization to an annual excise tax equal to 20 percent of the undistributed funds. The provision would be effective for contributions made after 2014. For contributions made before, and remaining in the donor advised fund on, January 1, 2015, the five-year distribution period would begin on January 1, 2015.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 5204. Simplification of excise tax on private foundation investment income.

Current law: Under current law, private foundations and certain charitable trusts are subject to a 2-percent excise tax on their net investment income. However, an organization may reduce the excise tax rate to 1 percent by meeting certain requirements regarding distributions to qualifying tax-exempt organizations during a tax year.

A special rule excludes “exempt operating foundations” from the excise tax. To be an exempt operating foundation, an organization must: (1) be an operating foundation, which is an organization that spends at least 85 percent of its adjusted net income or its minimum investment return, whichever is less, directly for the active conduct of its exempt activities, (2) be publicly supported for at least ten tax years, (3) have a governing body no more than 25 percent of whom are disqualified persons and that is broadly representative of the general public, and (4) have no officers who are disqualified persons. A disqualified person generally is any person in a position to exercise substantial influence over the affairs of the organization (e.g., officers, directors, or trustees).

Provision: Under the provision, the excise tax rate on net investment income would be reduced to 1 percent. The rules providing for a reduction in the excise tax rate from 2 percent to 1 percent would be repealed. The provision also would repeal the exception from the excise tax for exempt operating foundations. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would reduce revenues by \$1.6 billion over 2014-2023.

Sec. 5205. Repeal of exception for private operating foundation failure to distribute income.

Current law: Under current law, private foundations generally are required to pay out a minimum amount each year in distributions to accomplish one or more of the organization’s exempt purposes, including reasonable and necessary administrative expenses. Failure to pay out the minimum amount results in an initial excise tax on the foundation of 30 percent of the undistributed amount. An additional tax of 100 percent of the undistributed amount applies if an initial tax is imposed and the required distributions generally have not been made within the

following year. Private operating foundations are not subject to the payout requirements. To qualify as a private operating foundation, the organization must spend at least 85 percent of its adjusted net income or its minimum investment return, whichever is less, directly for the active conduct of its exempt activities.

Provision: Under the provision, the special exclusion for private operating foundations would be repealed. Thus, private operating foundations would be subject to the excise tax for failure to distribute income like private foundations generally. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 5206. Excise tax based on investment income of private colleges and universities.

Current law: Under current law, private foundations and certain charitable trusts are subject to a 2-percent excise tax on their net investment income. The excise tax on net investment income does not apply to public charities, including colleges and universities, even though some such organizations may have substantial investment income similar to private foundations.

Provision: Under the provision, certain private colleges and universities would be subject to a 1-percent excise tax on net investment income. The provision would only apply to private colleges and universities with assets (other than those used directly in carrying out the institution's educational purposes) valued at the close of the preceding tax year of at least \$100,000 per full-time student. State colleges and universities would not be subject to the provision. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$1.7 billion over 2014-2023.

Subtitle D – Requirements for Organizations Exempt from Tax

Sec. 5301. Repeal of tax-exempt status for professional sports leagues.

Current law: Under current law, a professional football league is specifically granted tax-exempt status as a 501(c)(6) organization, an exemption that generally applies to trade or professional associations. The IRS has interpreted the exemption for “professional football leagues” to include all professional sports leagues.

Provision: Under the provision, professional sports leagues would not be eligible for tax-exempt status as a trade or professional association under Code section 501(c)(6). The provision would not apply to amateur sports leagues, which would continue to qualify as tax-exempt entities. The provision would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 5302. Repeal of exemption from tax for certain insurance companies and co-op health insurance issuers.

Current law: Under current law, a property and casualty insurance company generally is exempt from tax if its gross receipts for the tax year do not exceed \$600,000 and its premiums constitute more than 50 percent of gross receipts. A mutual property and casualty insurance company is exempt from tax if its gross receipts for the tax year do not exceed \$150,000 and more than 35 percent of such gross receipts consist of premiums. A qualified nonprofit health insurance issuer under the Affordable Care Act (ACA), which has received a loan or grant under the ACA's co-op program, also is exempt from tax.

Provision: Under the provision, the exemption would be repealed for qualified property and casualty insurance companies and for qualified health insurance issuers. The provision would be effective for tax years beginning after 2014. Affected companies would not be required to make an adjustment for a change in accounting method for their first tax year beginning after December 31, 2014, and the basis of any asset held on the first day of such tax year would be equal to its fair market value on such day.

JCT estimate: According to JCT, the provision would increase revenues by \$0.7 billion over 2014-2023.

Sec. 5303. In-State requirement for workmen's compensation insurance organizations.

Current law: Under current law, organizations created by, and organized and operated under, State law exclusively to provide workmen's compensation insurance required by State law (or if an employer faces significant disincentives for not purchasing such insurance), or coverage incidental to such insurance, and meeting other requirements related to such organizations having strong connections to State governments are exempt from tax. Current law does not preclude exempt workmen's compensation insurance organizations from providing benefits to employees outside of the State under the laws of which it is created, organized and operated.

Provision: Under the provision, an exempt workmen's compensation insurance organization would be exempt from tax only if it provides no insurance coverage other than workmen's compensation insurance required by State law (or if an employer faces significant disincentives for not purchasing such insurance), or coverage incidental to such insurance. The provision would apply to insurance policies issued, and renewals, after 2014.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 5304. Repeal of Type II and Type III supporting organizations.

Current law: Under current law, organizations exempt from tax under Code section 501(c)(3) are classified either as public charities, if publicly supported, or private foundations. Certain organizations that provide support to another public charity may also be classified as public charities rather than private foundations, even if not publicly supported. To qualify as a supporting organization, an organization must meet all three of the following tests: (1) the organizational-and-operational test, (2) the lack-of-outside-control test, and (3) the relationship test. Under the relationship test, a supporting organization must hold one of three relationships with the supported public charity. The organization must be: (1) operated, supervised, or controlled by a publicly supported organization (commonly referred to as a Type I supporting organization); (2) supervised or controlled in connection with a publicly supported organization (a Type II supporting organization); or (3) operated in connection with a publicly supported organization (a Type III supporting organization). In effect, the classification of a supporting organization depends on how close its relationship is to the supported organization, with Type I supporting organizations having the closest relationship (akin to a parent-subsidiary relationship).

Provision: Under the provision, Type II and Type III supporting organizations would be repealed. Thus, organizations that support public charities would need to qualify as a supporting organization that is operated, supervised, or controlled by a publicly supported organization (i.e., a Type I supporting organization), or they would be treated as private foundations. The provision would generally be effective for entities organized after the date of enactment. Type II and III supporting organizations existing on the date of enactment would have until the end of 2015, to qualify as a public charity or a supporting organization (previously a Type I supporting organization) or be treated as a private foundation.

JCT estimate: According to JCT, the provision would increase revenues by \$1.4 billion over 2014-2023.

Title VI – Tax Administration and Compliance

Subtitle A – IRS Investigation-Related Reforms

Considerations for Subtitle A:

- The IRS investigation-related reforms in the discussion draft would address problems identified thus far during the course of the Committee’s ongoing IRS investigation. The provisions offer simple, commonsense administrative solutions to prevent the future abuse of taxpayers and to increase access to the courts for aggrieved organizations.
- The streamlined notification process to operate as a 501(c)(4) organization draws from the Committee’s in-depth analysis of the internal IRS processes and its review of all 501(c)(4) applicants over a two-year period. The Committee has found that a significant percentage of the Exempt Organizations Division’s time and budget is currently spent analyzing Form 1024, an expensive exemption application that many small organizations do not understand is optional.
- Moreover, the Committee has found that the IRS is allocating a significant amount of time attempting to predict future activities of 501(c)(4) organizations with miniscule operating budgets, while allocating virtually no resources to compliance audits based on actual activities that risk tax-revenue losses.
- The new streamlined notification process for 501(c)(4) organizations would save small groups unnecessary filing costs and would allow a risk-based approach for the IRS to monitor compliance in this area.
- The investigation-related provisions also respond to the Committee’s ongoing investigatory work involving unauthorized disclosures of confidential donor information by the IRS. The provisions would reduce the opportunities for unlawful disclosures of certain taxpayer information by the IRS, limit reporting of donor information where no tax administration interest exists, and restrict IRS employee use of personal e-mail for official business.
- Based on the Committee’s ongoing investigation, which has found significant instances where taxpayer rights had been violated by the IRS, the provisions would enhance taxpayer rights by requiring new IRS reporting and employee training.
- Stand-alone pieces of legislation making several of these proposed changes (including those in sections 6005, 6006, and 6010 of the discussion draft) have previously passed the House of Representatives but have not yet been taken up by the Senate.

Sec. 6001. Organizations required to notify Secretary of intent to operate as 501(c)(4).

Current law: Under current law, social welfare organizations described in Code section 501(c)(4) are not required to obtain a determination of their exempt status from the IRS before commencing operations. Rather, such organizations are exempt if they are not organized for profit but operated exclusively for the promotion of social welfare, and if no part of the net earnings of which inures to the benefit of any private shareholder or individual. However, such organizations may request a formal determination of exempt status by filing Form 1024, Application for Recognition of Exemption under Section 501(a). An organization typically files a Form 1024 to be recognized formally as a tax-exempt organization and to obtain certain

benefits such as exemption from certain State taxes and nonprofit mailing privileges. Once a social welfare organization commences operations (whether or not it applies or is formally approved for exempt status), the organization is required to file an annual information return, Form 990, Return of Organization Exempt from Income Tax.

Recent investigations of the IRS' handling of applications for exemption by section 501(c)(4) organizations have raised concerns about the extent of human resources the IRS dedicates to processing elective Form 1024 applications for exemption and the vulnerabilities for abuse in the current approval process.

Provision: Under the provision, any organization seeking to be recognized as exempt under Code section 501(c)(4) would be required, within 60 days of formation, to notify the IRS that it has commenced operations as a social welfare organization. Within 60 days of receiving the notification, the IRS would be required to issue an acknowledgement of the organization's intent to operate as such an exempt organization. A social welfare organization that fails to file the required notification of commencement of operations by the deadline would be subject to a penalty of \$20 per day up to \$5,000 and a manager-level penalty if the organization fails to file after a request from the IRS. With its first Form 990 information return, the organization would be required to provide such information as the IRS may require supporting the organization's qualification for exempt status. It is anticipated that this information would be similar to the information provided currently on Form 1024. If an organization wishes to receive a formal determination of exempt status, it would be able to request a ruling from the IRS.

The provision would apply to section 501(c)(4) organizations that are organized after 2014. Current organizations that have not filed a Form 1024 or a Form 990 would be required within 180 days of the date of enactment to meet the new notification requirement and provide the required information supporting the organization's qualification for exempt status with the Form 990 for the tax year in which the notice is filed.

JCT estimate: According to JCT, the provision would increase revenues by less than \$50 million over 2014-2023.

Sec. 6002. Declaratory judgments for 501(c)(4) organizations.

Current law: Under current law, an organization that has qualified for tax exemption under Code section 501(c)(3) or section 521, or has applied for such status, may seek judicial relief if the IRS challenges the organization's initial or continuing qualification for tax exemption. Such declaratory judgment relief may be granted by the U.S. Tax Court, U.S. Court of Federal Claims, or the U.S. District Court for the District of Columbia. However, similar relief is not available for a section 501(c)(4) social welfare organization.

Provision: Under the provision, declaratory judgment relief would be extended to controversies involving the initial or continuing qualification of section 501(c)(4) social-welfare organizations. The provision would be effective for pleadings filed after the date of enactment.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 6003. Restriction on donation reporting for certain 501(c)(4) organizations.

Current law: Under current law, organizations exempt from tax under Code section 501(c) generally are required to file an annual information return, Form 990, Return of Organization Exempt from Income Tax, with the IRS reflecting contributions, income, expenses and other information. Certain organizations, including social welfare organizations exempt under Code section 501(c)(4), must include Schedule B, Schedule of Contributors, listing any donor who contributes \$5,000 or more (in money or property) during the year. The IRS is required to make information returns filed by exempt organizations available to the public. However, Schedule B is excluded from disclosure to protect donor personal information required by the schedule. Recent investigations of the IRS' handling of applications for exemption by section 501(c)(4) organizations have raised concerns about improper disclosure of Schedule B donor information to the public.

Provision: Under the provision, a social welfare organization exempt under Code section 501(c)(4) would be required to include on Schedule B only information concerning a donor who both (1) contributes \$5,000 or more (in money or property) during the current tax year and (2) is either an officer or director of the organization or one of the five highest compensated employees of the organization for the current or any preceding tax year. Schedule B would continue to be excluded from the public disclosure requirement for information returns filed by exempt organizations. The provision would be effective for returns for tax years beginning after 2013.

JCT estimate: According to JCT, the provision would reduce revenues by less than \$50 million over 2014-2023.

Sec. 6004. Mandatory electronic filing for annual returns of exempt organizations.

Current law: Under current law, a tax-exempt organization generally must file its annual tax return (i.e., Form 990) electronically only if the organization files at least 250 returns (e.g., Form W-2 for employees, Form 1099 for certain service providers) during the calendar year. Organizations that are not required to file a Form 990 or Form 990-EZ, generally because their gross receipts are normally less than \$50,000 annually, must file an annual notice (Form 990-N) in electronic format. Certain tax-exempt organizations with unrelated business taxable income must report such income and associated tax on Form 990-T, which currently cannot be filed electronically. Current law limits the authority of the Treasury Department to require electronic filing of returns. As a result, only very small and very large tax-exempt organizations are required to file electronically.

Current law also requires the IRS to make available to the public information from the annual returns filed by tax-exempt organizations. Certain information relating to donors to such

organizations is excluded. The IRS currently makes the required data available only in a restricted format that limits the usefulness of the data to the public.

Provision: Under the provision, all tax-exempt organizations that file Form 990 series returns would be required to file electronically. The provision also would require the IRS to make the electronically filed Form 990 returns data publicly available in a machine readable format in a timely manner, after ensuring that any donor or other taxpayer information is redacted. The provision would be effective for tax years beginning after the date of enactment, with transition relief for smaller organizations that are not currently required to file electronically.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 6005. Duty to ensure that IRS employees are familiar with and act in accord with certain taxpayer rights.

Current law: Under current law, the Commissioner of Internal Revenue has such duties and powers as the Treasury Secretary prescribes, including the power to administer, manage, conduct, direct, and supervise the execution and application of the tax laws and related statutes.

Provision: Under the provision, the Commissioner's duties would be expanded to include ensuring that IRS employees are familiar with and act in accordance with taxpayer rights under the tax laws, including the right to be informed, the right to be assisted, the right to be heard, the right to pay no more than the correct amount of tax, the right of appeal, the right to certainty, the right to privacy, the right to confidentiality, the right to representation, and the right to a fair and just tax system. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 6006. Termination of employment of IRS employees for taking official actions for political purposes.

Current law: Under current law, there are ten enumerated acts or omissions that, if committed by an IRS employee, will result in mandatory termination of the employee (also known as the "ten deadly sins"). These acts or omissions include threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

Provision: Under the provision, the enumerated acts or omissions that result in mandatory termination of an IRS employee would be expanded to include performing, delaying, or failing to perform (or threatening to perform, delay, or fail to perform) any official action or audit with respect to a taxpayer for the purpose of extracting personal gain or benefit or for political purposes. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 6007. Release of information regarding the status of certain investigations.

Current law: Under current law, it is unlawful for Federal employees to disclose certain taxpayer information or inspect taxpayer returns or records without authorization. Current law also limits the lawful disclosure of taxpayer information by employees of the Treasury Department (including the IRS and the Treasury Inspector General for Tax Administration) to certain enumerated circumstances. Because of these restrictions, in cases in which a taxpayer makes a complaint regarding unlawful disclosure of information, current law does not permit the Treasury Department to provide the affected taxpayer with information concerning the status or resolution of the complaint.

Provision: Under the provision, the enumerated circumstances in which taxpayer information may be lawfully disclosed by the Treasury Department would be expanded to include disclosure to certain complainants (or their representatives) of information regarding the status and results of any investigation initiated by their complaint. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 6008. Review of IRS examination selection procedures.

Current law: Under current law, the IRS' four operating divisions (wage and investment, small business/self-employed, large business and international, and tax-exempt and government entities) have discretion to develop and implement criteria for selection of cases for enforcement action. Concerns have been raised regarding the impartiality and appropriateness of such enforcement actions, especially with respect to certain tax-exempt organizations.

Provision: Under the provision, the Comptroller General would be directed to undertake an initial review of each IRS operating division to assess the processes used to determine how enforcement cases are selected and worked, and would be directed to report to Congress and the Treasury Secretary the results of the initial review and any recommendations to improve the case selection and case work processes for each division. The Comptroller General also would be directed to conduct a follow-up review to determine whether the recommendations included in the initial report have been implemented. Following the initial and follow-up reviews, the Comptroller General would be directed to conduct further reviews of each IRS division every four years, and would be directed to report to Congress and the Treasury Secretary the results of these reviews. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 6009. IRS employees prohibited from using personal email accounts for official business.

Current law: Under current law, there is no statutory prohibition against the use of personal email accounts by IRS employees to conduct official agency business. The Internal Revenue Manual restricts IRS employees from sending emails that contain “sensitive but unclassified” data outside the IRS network, unless approved by senior agency management, but the manual does not specifically reference the use of personal email accounts.

Provision: Under the provision, IRS employees would be prohibited by statute from using any personal email account to conduct official agency business. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 6010. Moratorium on IRS conferences.

Current law: Under current law, the IRS has discretion to hold conferences relating to employee training and other management purposes, and to incur travel expenses relating to such conferences. On May 31, 2013, the Treasury Inspector General for Tax Administration (TIGTA) issued a report titled, “Review of the August 2010 Small Business/Self-Employed Division’s Conference in Anaheim, California,” which identified excessive spending on IRS conferences and other deficiencies in management procedures.

Provision: Under the provision, the IRS would be precluded from holding any conference until TIGTA submits a report to Congress certifying that the IRS has implemented all of the recommendations included in TIGTA’s May 31, 2013 report. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 6011. Applicable standard for determinations of whether an organization is operated exclusively for the promotion of social welfare.

Current law: Under current law, Code section 501(c)(4) provides a tax exemption for organizations not organized for profit but operated exclusively for the promotion of social welfare. Treasury regulations provide that an organization is operated exclusively for the promotion of social welfare if it is engaged primarily in promoting in some way the common good and general welfare of the people of a community. Social welfare organizations are permitted to engage in “direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office” (“political campaign intervention”) so long as the organization is primarily engaged in activities that promote social welfare.

Under current Treasury regulations, whether an activity constitutes political campaign intervention (and thus does not promote social welfare), and the measurement of the organization's social welfare activities relative to its total activities, depends on all the facts and circumstances of the particular case. The rules concerning political campaign intervention apply only to activities involving candidates for elective public office; the rules do not apply to activities involving officials who are selected or appointed, such as executive branch officials and judges. The lobbying and advocacy activities of a section 501(c)(4) organization generally are not limited, provided the activities are in furtherance of the organization's exempt purpose.

On November 29, 2013, the Department of the Treasury and the IRS published proposed regulations regarding the political campaign activities of section 501(c)(4) organizations. The proposed regulations, once finalized, would replace the present-law facts-and-circumstances test used in determining whether a section 501(c)(4) organization has engaged in political campaign intervention with an enumerated list of activities that constitute political campaign activities (and which therefore do not promote social welfare).

Provision: The provision would require the IRS to apply the standards and definitions in effect on January 1, 2010, to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of Code section 501(c)(4). The provision also would prohibit the Secretary or his delegate from issuing, revising, or finalizing any regulation (including the proposed regulations issued on November 29, 2013), revenue ruling, or other guidance that is not limited to a particular taxpayer relating to the standards or definitions used to determine whether an organization is operated exclusively for the promotion of social welfare for purposes of Code section 501(c)(4). The provision would be effective on the date of enactment and expire one year after such date.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Subtitle B – Taxpayer Protection and Service Reforms

Sec. 6101. Extension of IRS authority to require truncated Social Security numbers on Form W-2.

Current law: Under current law, employers are required to furnish annual written statements to their employees containing certain information regarding wages and benefits (i.e., Form W-2). Current law requires that the statement include the employee's Social Security number (SSN). Other statements provided to taxpayers (e.g., Forms 1099) are subject to more general rules that require the filer to include the taxpayer's "identifying number" on the form. For some statements, the Treasury Department and IRS have regulatory authority to require or permit filers to use a number other than the taxpayer's SSN. Concerns have been raised that a taxpayer's SSN could be stolen from a Form W-2 or other paper payee statement and used to file false or fraudulent tax returns.

Provision: Under the provision, employers would be required to include an “identifying number” for each employee, rather than an employee’s SSN, on Form W-2. Thus, the Treasury Department and the IRS would have the regulatory authority to require or permit a truncated SSN on Form W-2 as well as Form 1099 to reduce the potential for identity theft and the filing of false or fraudulent tax returns. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 6102. Free electronic filing.

Current law: Under current law, the IRS has entered into arrangements with commercial return preparation service providers (known as the Free File Alliance) to provide free tax preparation and electronic filing services to eligible low-income or elderly taxpayers. This arrangement is commonly known as the Free File Program. Taxpayers generally must select a designated service provider through the IRS’ website to access commercial online software provided by Free File Alliance companies to prepare and file their tax returns. To qualify, taxpayers must have adjusted gross income (AGI) of \$58,000 or less (for 2013 returns). Each participating company sets its own eligibility requirements and not all taxpayers will qualify to use the software of all companies. There is no fee for taxpayers using the Free File Program, and Free File Alliance companies also do not pay any fee to the IRS to participate in the program.

Provision: Under the provision, the IRS would be directed to continue working cooperatively with the private-sector technology industry to maintain a program that provides free individual income tax preparation and individual income tax electronic filing services to lower-income and elderly taxpayers. (The current Free File Program would satisfy this requirement.) The IRS would be required to provide regulations or other guidance with respect to the program, including (1) the qualifications, selection process, terms of participation, and any other procedures with respect to businesses seeking to participate in the program; (2) a process for periodic review of participants approved for the program; and (3) a procedure for removal of any participant that no longer qualifies for the program or has failed to comply with the program’s rules and procedures. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Sec. 6103. Pre-populated returns prohibited.

Current law: Under current law, a taxpayer generally has responsibility for preparing and filing a tax return if the taxpayer has taxable gross income for a tax year. Certain taxpayers may elect to have the IRS prepare the return based on information provided by the taxpayer. Similarly, under the substitute for return program, the IRS may make a return based on information available to or obtained by the IRS for a taxpayer who fails to prepare and file a return by the required due date or for a taxpayer who makes, willfully or otherwise, a false or fraudulent

return. The IRS has an obligation under current law to make reasonable efforts to verify any third-party information upon which the agency relies under the substitute for return program or bear the burden of proof if such information is subject to judicial review. If the IRS ultimately determines that a non-filing taxpayer had no filing requirement, any tax, penalty, and interest assessed generally is abated.

Provision: Under the provision, the IRS would be prohibited from instituting any program under which it prepares or otherwise provides taxpayers with proposed or final returns or statements intended to be used by the taxpayer to satisfy his reporting obligation under the Code. Thus, the IRS would not have authority to implement a broad-based program under which it pre-populates a return with third-party information supplied to the agency (e.g., Form W-2 wage statements, Form 1099s for interest, dividends or capital gains) and provides such return to a taxpayer for filing. The provision would be effective on the date of enactment.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 6104. Form 1040SR for seniors.

Current law: Under current law, a taxpayer generally is responsible for preparing and filing a tax return if the taxpayer has taxable gross income for a tax year. The IRS has broad discretion under current law to provide all necessary forms to enable taxpayers to satisfy their return-filing obligations. Taxpayers with relatively uncomplicated financial circumstances and modest income are generally eligible to file their taxes using the simplest tax form – Form 1040EZ. However, individuals who are age 65 or older are expressly prohibited from using Form 1040EZ, thereby requiring them to use other more complicated forms.

Provision: Under the provision, the IRS would be required to develop a simple tax return to be known as Form 1040SR, which would be as similar as practicable to the current Form 1040EZ. The new form would be available for use by individuals over the age of 65 who receive common types of retirement income. The provision would be effective for tax years beginning after 2014.

Consideration: Under current IRS rules, taxpayers with relatively uncomplicated financial lives are generally eligible to file their taxes using the simplest tax return – Form 1040EZ. However, no matter how simple and straightforward their returns, seniors are expressly denied the opportunity to use the most convenient tax form simply because they are over the age of 65. As a result, seniors must use other more complicated forms, forcing them to struggle through the myriad pages of instructions, worksheets, and schedules to file their taxes or spend their retirement income on a professional tax preparer to do so. The provision would correct this inequity and require the IRS to make available a simple tax form specifically for seniors.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Sec. 6105. Increased refund and credit threshold for Joint Committee on Taxation review of C corporation return.

Current law: Under current law, the IRS may not issue a refund or credit of any income or certain other taxes in excess of \$2 million until 30 days after the IRS provides a report regarding the refund or credit to the Joint Committee on Taxation (JCT). As a matter of administrative practice, JCT staff reviews the facts surrounding the proposed refund or credit and communicates any concerns back to the IRS, which can then modify the refund or credit at its discretion.

Provision: Under the provision, the threshold for JCT review of refunds or credits with respect to returns filed by C corporations would be increased to \$5 million. The provision would be effective on the date of enactment, except with respect to pending refund or credit reports that have been transmitted by the IRS to JCT prior to such date.

JCT estimate: According to JCT, the provision would have negligible revenue effect over 2014-2023.

Subtitle C – Tax Return Due Date Simplification

Secs. 6201-6203. Due dates for returns of partnerships, S corporations, and C corporations; Modification of due dates by regulation; Corporations permitted statutory automatic 6-month extension of income tax returns.

Current law: Under current law, taxpayers required to file income tax returns must file such returns in the manner prescribed by the IRS and subject to the due dates established in the Code (if any) or by regulations. Accordingly, a C corporation or an S corporation is required to file its tax return by March 15 (or within two and a half months after the close of its tax year). A partnership is required to file its returns by April 15 (or within three and a half months after the close of its tax year), the same date that applies to individuals and sole proprietors.

Current law provides corporations with an automatic three-month extension of the filing due date, with corporations permitted to apply for an additional three-month extension (for a total of six months).

Provision: Under the provision, the schedule for filing tax returns would be modified as follows:

- A partnership or S corporation would be required to file by March 15 (or two and a half months after the close of its tax year).
- A C corporation would be required to file by April 15 (or three and a half months after the close of its tax year).

The provision also would provide C corporations with an automatic six-month extension of the applicable filing date. Similarly, the provision would codify certain extensions currently provided by regulations.

The provision generally would be effective for tax years beginning after 2014. For C corporations with fiscal years ending on June 30, the new filing date would not apply to any tax year beginning in 2022.

JCT estimate: According to JCT, the provisions would increase revenues by \$0.1 billion over 2014-2023.

Subtitle D – Compliance Reforms

Sec. 6301. Penalty for failure to file.

Current law: Under current law, a taxpayer who fails to file a tax return within 60 days of the due date is subject to a minimum penalty equal to the lesser of \$135 or 100 percent of the amount required to be shown on the return.

Provision: Under the provision, the minimum penalty for failure to file a tax return would be increased to \$400. The provision would be effective for tax returns the due date for the filing of which (including extensions) is after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.3 billion over 2014-2023.

Sec. 6302. Penalty for failure to file correct information returns and provide payee statements.

Current law: Under current law, a multi-tier penalty structure applies to a taxpayer that fails to file correct information returns (e.g., IRS Form 1099) with the IRS. The penalties are based on the duration of the delinquency, the size of the taxpayer, and the taxpayer's intent. A separate, but parallel, penalty regime applies to taxpayers that fail to provide the payee with a correct copy of the information return (e.g., IRS Form 1099) filed with the IRS. The current amount for both penalty regimes is \$100 for each information return not corrected before August 1st following the filing due date, with a maximum for each penalty of \$1.5 million for any taxpayer in a calendar year. If the failure is corrected within 30 days of the due date, the penalty is reduced to \$30 per return, with a maximum of \$250,000 for each penalty. If the failure is corrected after 30 days but before August 1st, the penalty is \$60 per return with a maximum of \$500,000 for each penalty. For taxpayers with gross receipts of not more than \$5 million, the maximum amount of the general penalty is \$500,000, the maximum for corrected returns within 30 days is \$75,000, and the maximum for corrected returns after 30 days, but before August 1st, is \$200,000. For taxpayers who intentionally disregard the filing requirements, the penalty is \$250 per return with no maximum.

Provision: Under the provision, the penalty for failure to file correct information returns and the penalty for failure to furnish correct payee statements would be adjusted as follows:

Level of Culpability	Amount per Return	Maximum per Year	Maximum for Small Business
Corrected within 30 days of due date	Current: \$30 Provision: \$50	Current: \$250,000 Provision: \$500,000	Current: \$75,000 Provision: \$175,000
Corrected after 30 days but before August 1st	Current: \$60 Provision: \$100	Current: \$500,000 Provision: \$1,500,000	Current: \$200,000 Provision: \$500,000
Continuing delinquency on or after August 1st	Current: \$100 Provision: \$250	Current: \$1,500,000 Provision: \$3,000,000	Current: \$500,000 Provision: \$1,000,000
Intentional failure	Current: \$250 Provision: \$500	Current: No limit Provision: No limit	Current: No limit Provision: No limit

The provisions would be effective for information returns and payee statements required to be filed after 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Sec. 6303. Clarification of 6-year statute of limitations in case of overstatement of basis.

Current law: Under current law, taxes generally are required to be assessed within three years after the date on which the taxpayer filed the return. However, if a taxpayer omits substantial income on a return (i.e., in excess of 25 percent of the amount of gross income that was stated in the return), any tax with respect to that return generally may be assessed within six years of the date on which the return was filed. The Supreme Court has ruled that the six-year statute of limitations does not apply to a return on account of the taxpayer having substantially overstated the adjusted basis of property, the sale or exchange of which results in an understatement of gain.

Provision: Under the provision, the six-year statute of limitations would apply to a return on which the taxpayer claims an adjusted basis for any property that is more than 125 percent of the correct adjusted basis. The provision would be effective for returns filed after the date of enactment and for returns filed on or before the date of enactment if the general statute of limitations has not expired.

JCT estimate: According to JCT, the provision would increase revenues by \$1.1 billion over 2014-2023.

Sec. 6304. Reform of rules related to qualified tax collection contracts.

Current law: Under current law, the IRS has authority to enter into qualified tax collection contracts with private debt collection companies to locate and contact taxpayers owing outstanding tax liabilities of any type, and to arrange payment of such taxes by the taxpayers. Qualified tax collection contracts are subject to a number of administrative safeguards: (1) provisions of the Fair Debt Collection Practices Act apply; (2) taxpayer protections that are statutorily applicable to the IRS and its employees are applicable to the private-sector debt

collection companies and to their employees; and (3) subcontractors of the private debt collection companies are subject to a number of restrictions regarding their contact with taxpayers.

Provision: Under the provision, the IRS would be required to use qualified tax collection contracts to collect certain inactive tax receivables. These receivables would include accounts removed from active inventory due to lack of IRS resources, accounts for which more than a third of the statute of limitations has expired without being assigned to an IRS employee for collection, and assigned accounts that have gone more than 365 days without interaction between the IRS and the taxpayer. However, certain receivables would not be assigned to private debt collection companies, including accounts subject to a pending or active offer-in-compromise or installment agreement, accounts relating to innocent spouse cases and taxpayers in combat zones, accounts of minors, deceased taxpayers or victims of identity theft, and accounts under examination, litigation, criminal investigation, levy, or subject to a right of appeal. The provision also would permit taxpayers in a presidentially declared disaster area to request that the private debt collector suspend collections and return the account to the IRS. The provision would be effective for tax receivables identified by the IRS after the date of enactment.

Considerations:

- From 2006 to 2009, the IRS conducted a pilot private debt collection program to help the agency collect certain tax debts that the agency did not have the resources to pursue.
- Despite successfully collecting \$98.2 million through the private debt collection program, the Obama Administration terminated the pilot program in 2009.
- The provision would require the IRS to restore the private debt collection program to collect specific types of inactive tax debts that the agency is never going to collect due to resource constraints.
- With the current fiscal constraints and personnel limitations facing the IRS, the provision would ensure that the IRS uses every tool at its disposal to collect delinquent tax debts that otherwise will go uncollected and eventually become uncollectable once the statute of limitations expires.
- At the same time, the private debt collection program would be subject to numerous critical safeguards to ensure that the rights of taxpayers from whom such tax debts would be collected are carefully protected.

JCT estimate: According to JCT, the provision would increase revenues by \$4.4 billion over 2014-2023, and increase outlays by \$2.2 billion over 2014-2023.

Sec. 6305. 100 percent continuous levy on payments to Medicare providers and suppliers.

Current law: Under current law, the Treasury Department is authorized to continuously levy up to 15 percent of a payment to a Medicare provider to collect delinquent tax debt. Through the Federal Payment Levy Program, the Treasury Department deducts (levies) a portion of a government payment to an individual or business to collect unpaid taxes.

Provision: Under the provision, the Treasury Department would be authorized to levy up to 100 percent of a payment to a Medicare provider to collect unpaid taxes. The provision would be effective for levies issued after the date of enactment.

JCT estimate: According to JCT, the provision would increase revenues by \$0.7 billion over 2014-2023.

Sec. 6306. Treatment of refundable credits for purposes of certain penalties.

Current law: Under current law, a 20-percent accuracy-related penalty applies to the underpayment of tax. There is uncertainty as to the extent to which refundable credits are taken into account when determining the amount of the underpayment subject to the penalty. The Tax Court recently held that refundable credits count toward the underpayment of tax but only to the extent that tax liability is reduced to zero, but not to the extent that the credits produce a tax refund.

A separate 20-percent penalty applies when taxpayers make erroneous claims for refunds or credits. This penalty does not apply under current law to the earned income tax credit (EITC). The IRS may only assert either the penalty for erroneous claims for refund or credit or the penalty for underpayment of tax described above, but not both.

Provision: Under the provision, the penalty for underpayment of tax would take into account the full amount of refundable credits. The provision would be effective for returns filed after February 26, 2014 and returns filed on or before such date if the general statute of limitations has not expired.

The provision also would amend the penalty for erroneous claims for refunds or credits to apply to taxpayers who erroneously claim the new credit for employment-related taxes (section 1103 of the discussion draft). The provision would be effective for claims filed after February 26, 2014.

JCT estimate: According to JCT, the provision would increase revenues by \$0.1 billion over 2014-2023.

Title VII – Excise Taxes

Sec. 7001. Repeal of medical device excise tax.

Current law: Under current law, the manufacturer, producer, or importer of any taxable medical device must pay an excise tax equal to 2.3 percent of the sales price of such device. The excise tax does not apply to eyeglasses, contact lenses, hearing aids, and any other medical device determined by the Secretary to be of a type that is generally purchased by the general public at retail for individual use.

Provision: Under the provision, the medical device excise tax would be repealed. The provision would apply to sales after the date of enactment.

JCT estimate: According to JCT, the provision would reduce revenues by \$29.5 billion over 2014-2023.

Sec. 7002. Modifications relating to oil spill liability trust fund.

Current law: Under current law, an excise tax is imposed on crude oil (including crude oil condensates and natural gasoline) that is received at a U.S. refinery and on petroleum products that are imported into the United States. These excise tax revenues are deposited into the Oil Spill Liability Trust Fund. The excise tax rate is 8 cents per barrel through 2016 and 9 cents per barrel for 2017, but the tax expires after 2017. In 2011, the IRS issued administrative guidance concluding that tar sands are not subject to the excise tax because tar sands are not included in the definition of “crude oil” or “petroleum products” for purposes of the excise tax.

Provision: Under the provision, the excise tax would continue to be imposed at a rate of 9 cents per barrel for 2018 through 2023. In addition, the definitions of “crude oil” and “petroleum products” to which the excise tax applies would be modified to include crude oil condensates, natural gasoline, any bitumen or bituminous mixture, any oil derived from a bitumen or bituminous mixture, shale oil, and any oil derived from kerogen-bearing sources. The provision would be effective for oil and petroleum products received at U.S. refineries or imported into the United States during calendar quarters beginning more than 60 days after the date of enactment.

JCT estimate: According to JCT, the provision would increase revenues by \$1.2 billion over 2014-2023.

Sec. 7003. Modification relating to inland waterways trust fund financing rate.

Current law: Under current law, an excise tax of 20 cents per gallon is imposed on fuel used in powering commercial cargo vessels on inland or intra-coastal waterways. These excise tax revenues are deposited into the Inland Waterways Trust Fund.

Provision: Under the provision, the excise tax rate would be increased to 26 cents per gallon. The provision would be effective for fuel used after 2014.

Consideration: In a letter dated September 24, 2013, to the Ways and Means Committee, the Waterways Council and a coalition of nearly 40 stakeholders expressed support for increasing the excise tax that supports the Inland Waterways Trust Fund to at least 26 cents per gallon, in conjunction with spending reforms included in the Water Resources Reform and Development Act, which passed the House of Representatives on October 23, 2013.

JCT estimate: According to JCT, the provision would increase revenues by \$0.2 billion over 2014-2023.

Sec. 7004. Excise tax on systemically important financial institutions.

Current law: Under current law, sections 113 and 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act define a systemically important financial institution (SIFI) as (1) any bank holding company with at least \$50 billion in total consolidated assets, or (2) any non-bank financial institution designated for SIFI treatment by the Financial Stability Oversight Council and thus subject to oversight by the Federal Reserve. SIFI status subjects a financial institution to more stringent prudential standards than apply to non-SIFIs, and such status also requires regulators and the financial institution to agree on a resolution plan to ensure an orderly process in the event that the financial institution fails or suffers financial distress. The Federal Reserve and other agencies conduct annual stress tests on SIFIs to ensure that the SIFIs have adequate capital to absorb losses that result from economic downturns.

Currently, there is no excise tax that applies to the assets of SIFIs.

Provision: Under the provision, every SIFI would be required to pay a quarterly excise tax of 0.035 percent of the SIFI's total consolidated assets (as reported to the Federal Reserve) in excess of \$500 billion. After calendar year 2015, the \$500 billion threshold would be indexed for increases in the gross domestic product (GDP). The provision would apply to calendar quarters beginning after 2014.

Considerations:

- Many commentators and academic studies have suggested that policies such as Dodd-Frank's SIFI designation actually contribute to the financial markets' view that certain financial institutions are "too big to fail" and may, therefore, be deserving of additional taxpayer bailouts in the future.
- The provision would address the significant implicit subsidy bestowed on big Wall Street banks and other financial institutions under Dodd-Frank. By deeming SIFIs to be "too big to fail," Dodd-Frank effectively subsidizes these big banks and financial institutions, providing them lower borrowing costs than they would face without that special designation. While tax reform cannot undo Dodd-Frank, it can and should help recapture a portion of that implicit subsidy.

- The SIFI designation applies to financial institutions with over \$50 billion in assets. To avoid affecting smaller, regional banks that were not at the center of the recent financial crisis, the provision would be carefully targeted to apply to the largest of Wall Street firms – those having more than \$500 billion in worldwide consolidated assets.
- On March 22, 2013, the Senate approved, by a unanimous vote of 99-0, a bipartisan amendment to the Senate budget resolution endorsing legislation to end subsidies and funding advantages received by “too big to fail” banks with total assets over \$500 billion. So this concept has strong bipartisan, bicameral support.

JCT estimate: According to JCT, the provision would increase revenues by \$86.4 billion over 2014-2023.

Sec. 7005. Clarification of orphan drug exception to annual fee on branded prescription pharmaceutical manufacturers and importers.

Current law: Under current law, an annual tax is imposed on covered entities engaged in the business of manufacturing or importing branded prescription drugs for sale to any specified government program or pursuant to coverage under any such program. Taxes collected are credited to the Medicare Part B trust fund. The aggregate annual tax imposed on all covered entities is \$2.5 billion for calendar year 2011, \$2.8 billion for calendar years 2012 and 2013, \$3 billion for calendar years 2014 through 2016, \$4 billion for calendar year 2017, \$4.1 billion for calendar year 2018, and \$2.8 billion for calendar year 2019 and thereafter. The aggregate tax is apportioned among the covered entities each year based on their relative share of branded prescription drug sales taken into account during the previous calendar year.

Branded prescription drug sales do not include sales of any drug or biological product with respect to which an orphan drug tax credit was allowed for any tax year under Code section 45C. The exception for orphan drug sales does not apply to any drug or biological product after such drug or biological product is approved by the Food and Drug Administration (FDA) for marketing for any indication other than the rare disease or condition with respect to which the section 45C credit was allowed.

Provision: Under the provision, eligibility for the orphan drug exemption would be expanded to include any drug or biological product that is approved or licensed by the FDA for marketing solely for one or more rare diseases or conditions, regardless of whether the section 45C credit was ever allowed. A disease or condition would be considered “rare” if either it affects less than 200,000 U.S. persons, or there is no reasonable expectation that the cost of developing and making the drug available will be recovered from sales. The provision would be effective for calendar years after 2013.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.

Title VIII – Deadwood and Technical Provisions

Subtitle A – Repeal of Deadwood

Secs. 8001-8084. Repeal of Deadwood.

Current law: Under current law, there are numerous provisions that relate to past tax years (and generally are no longer applied in computing taxes for open tax years), involve situations that were narrowly defined and unlikely to recur, or otherwise have outlived their usefulness. These types of provisions are often referred to as “deadwood” provisions.

Provisions: Under these provisions, current-law provisions that are deadwood would be repealed. (Note that other provisions in other titles of the discussion draft would repeal other current-law provisions that would become deadwood as a result of those other provisions.) These provisions generally would be effective on the date of enactment, although the tax treatment of any transaction occurring before that date, of any property acquired before that date, or of any item taken into account before that date, would not be affected by these provisions.

JCT estimate: According to JCT, the provisions would have no revenue effect over 2014-2023.

Subtitle B – Conforming Amendments Related to Multiple Sections

Sec. 8101. Conforming amendments related to multiple sections.

Current law: Under current law, there are numerous provisions that would be affected by multiple provisions in the discussion draft and, therefore, require technical changes to conform these current-law provisions to the provisions in the discussion draft.

Provision: Under the provision, several conforming changes that are common to various provisions of the discussion draft would be made. The provision generally would be effective for tax years beginning after 2014.

JCT estimate: According to JCT, the provision would have no revenue effect over 2014-2023.