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108TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 108–696

WORKING FAMILIES TAX RELIEF ACT OF 2004

SEPTEMBER 23, 2004.—Ordered to be printed

Mr. THOMAS, from the committee on conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 1308]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House to the amendments of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Working Families Tax Relief Act of 2004".

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

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EXTENSION OF FAMILY TAX PROVISIONS

Sec. 101. Repeal of scheduled reductions in child tax credit, marriage penalty relief, and 10-percent rate bracket.
Sec. 102. Acceleration of increase in refundability of the child tax credit.
Sec. 103. 1-year extension of minimum tax relief to individuals.

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Sec. 104. Earned income includes combat pay.
Sec. 105. Application of EGTRRA sunset to this title.

TITLE II—UNIFORM DEFINITION OF CHILD

Sec. 201. Uniform definition of child, etc.
Sec. 202. Modifications of definition of head of household.
Sec. 203. Modifications of dependent care credit.
Sec. 204. Modifications of child tax credit.
Sec. 205. Modifications of earned income credit.
Sec. 206. Modifications of deduction for personal exemption for dependents.
Sec. 207. Technical and conforming amendments.
Sec. 208. Effective date.

TITLE III—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Sec. 301. Research credit.
Sec. 302. Parity in the application of certain limits to mental health benefits.
Sec. 303. Work opportunity credit and welfare-to-work credit.
Sec. 304. Qualified zone academy bonds.
Sec. 305. Cover over of tax on distilled spirits.
Sec. 306. Deduction for corporate donations of scientific property and computer technology.
Sec. 307. Deduction for certain expenses of school teachers.
Sec. 308. Expensing of environmental remediation costs.
Sec. 309. Certain New York Liberty Zone benefits.
Sec. 310. Tax incentives for investment in the District of Columbia.
Sec. 311. Disclosure of tax information to facilitate combined employment tax reporting.
Sec. 312. Allowance of nonrefundable personal credits against regular and minimum tax liability.
Sec. 313. Credit for electricity produced from certain renewable resources.
Sec. 314. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
Sec. 315. Indian employment tax credit.
Sec. 316. Accelerated depreciation for business property on Indian reservation.
Sec. 317. Disclosure of return information relating to student loans.
Sec. 318. Elimination of phaseout of credit for qualified electric vehicles for 2004 and 2005.
Sec. 319. Elimination of phaseout for deduction for clean-fuel vehicle property for 2004 and 2005.
Sec. 320. Disclosures relating to terrorist activities.
Sec. 321. Joint review of strategic plans and budget for the Internal Revenue Service.
Sec. 322. Availability of medical savings accounts.

TITLE IV—TAX TECHNICAL CORRECTIONS

Sec. 401. Amendments related to Medicare Prescription Drug, Improvement, and Modernization Act of 2003.
Sec. 402. Amendments related to Jobs and Growth Tax Relief Reconciliation Act of 2003.
Sec. 403. Amendments related to Job Creation and Worker Assistance Act of 2002.
Sec. 404. Amendments related to Economic Growth and Tax Relief Reconciliation Act of 2001.
Sec. 405. Amendments related to Community Renewal Tax Relief Act of 2000.
Sec. 406. Amendments related to Taxpayer Relief Act of 1997.
Sec. 407. Amendments related to Small Business Job Protection Act of 1996.
Sec. 408. Clerical amendments.

TITLE I—EXTENSION OF FAMILY TAX PROVISIONS

SEC. 101. REPEAL OF SCHEDULED REDUCTIONS IN CHILD TAX CREDIT, MARRIAGE PENALTY RELIEF, AND 10-PERCENT RATE BRACKET.

(a) CHILD TAX CREDIT.—Subsection (a) of section 24 (relating to child tax credit) is amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with re-

spect to each qualifying child of the taxpayer an amount equal to $1,000.".

(b) MARRIAGE PENALTY RELIEF IN STANDARD DEDUCTION.—

(1) IN GENERAL.—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

"(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

"(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $4,400 in the case of a head of household (as defined in section 2(b)), or

"(C) $3,000 in any other case.".

(2) CONFORMING AMENDMENTS.—

(A) Section 63(c)(4) is amended by striking "(2)(D)" each place it occurs and inserting "(2)(C)".

(B) Section 63(c) is amended by striking paragraph (7).

(c) MARRIAGE PENALTY RELIEF IN 15-PERCENT INCOME TAX BRACKET.—Paragraph (8) of section 1(f) is amended to read as follows:

"(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—With respect to taxable years beginning after December 31, 2003, in prescribing the tables under paragraph (1)—

"(A) the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

"(B) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under subparagraph (A).".

(d) 10-PERCENT RATE BRACKET.—

(1) IN GENERAL.—Clause (i) of section 1(i)(1)(B) is amended by striking "($12,000 in the case of taxable years beginning after December 31, 2004, and before January 1, 2008)".

(2) INFLATION ADJUSTMENT.—Subparagraph (C) of section 1(i)(1) is amended to read as follows:

"(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2003—

"(i) the cost-of-living adjustment shall be determined under subsection (f)(3) by substituting '2002' for '1992' in subparagraph (B) thereof, and

"(ii) the adjustments under clause (i) shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

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

SEC. 102. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.

(a) ACCELERATION OF REFUNDABILITY.—Section 24(d)(1)(B)(i) (relating to portion of credit refundable) is amended by striking "(10 percent in the case of taxable years beginning before January 1, 2005)".

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

SEC. 103. EXTENSION OF MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 55(d)(1) of the Internal Revenue Code of 1986 (relating to exemption amount for taxpayers other than corporations) are each amended by striking "2003 and 2004" and inserting "2003, 2004, and 2005".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 104. EARNED INCOME INCLUDES COMBAT PAY.

(a) CHILD TAX CREDIT.—Section 24(d)(1) (relating to portion of credit refundable) is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.".

(b) EARNED INCOME CREDIT.—Subparagraph (B) of section 32(c)(2) (relating to earned income) is amended—

(1) by striking "and" at the end of clause (iv),

(2) by striking the period at the end of clause (v) and inserting ", and", and

(3) by adding at the end the following:

"(vi) in the case of any taxable year ending—

"(I) after the date of the enactment of this clause, and

"(II) before January 1, 2006,

a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.".

(c) EFFECTIVE DATE.—

(1) CHILD TAX CREDIT.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

(2) EARNED INCOME CREDIT.—The amendments made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 105. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE II—UNIFORM DEFINITION OF CHILD

SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 is amended to read as follows:

"SEC. 152. DEPENDENT DEFINED.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

"(1) a qualifying child, or

"(2) a qualifying relative.

"(b) EXCEPTIONS.—For purposes of this section—

"(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

"(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

"(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

"(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

"(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

"(ii) the taxpayer is a citizen or national of the United States.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(C) who meets the age requirements of paragraph (3), and

"(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

"(A) a child of the taxpayer or a descendant of such a child, or

"(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

"(3) AGE REQUIREMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

"(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

"(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

"(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

"(i) a parent of the individual, or

"(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

"(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

"(i) the parent with whom the child resided for the longest period of time during the taxable year, or

"(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

"(d) QUALIFYING RELATIVE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

"(A) who bears a relationship to the taxpayer described in paragraph (2),

"(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

"(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

"(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

"(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

"(A) A child or a descendant of a child.

"(B) A brother, sister, stepbrother, or stepsister.

"(C) The father or mother, or an ancestor of either.

"(D) A stepfather or stepmother.

"(E) A son or daughter of a brother or sister of the taxpayer.

"(F) A brother or sister of the father or mother of the taxpayer.

"(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

"(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support,

"(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

"(C) the taxpayer contributed over 10 percent of such support, and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United

States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

"(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

"(B) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(e) SPECIAL RULE FOR DIVORCED PARENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—

"(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year, such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

"(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

"(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

"(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

"(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, or

"(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of subparagraph (B), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

"(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

"(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

"(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

"(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) CHILD DEFINED.—

"(A) IN GENERAL.—The term 'child' means an individual who is—

"(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

"(ii) an eligible foster child of the taxpayer.

"(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

"(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

"(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

"(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

"(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

"(A) a child of the taxpayer, and

"(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account.

"(6) TREATMENT OF MISSING CHILDREN.—

"(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a

member of the family of such child or the taxpayer, and

"(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

"(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

"(i) the deduction under section 151(c),

"(ii) the credit under section 24 (relating to child tax credit),

"(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

"(iv) the earned income credit under section 32.

"(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

"(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

"(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

"(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

"(7) CROSS REFERENCES.—

"For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).".

SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

"(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

"(I) is married at the close of the taxpayer's taxable year, and

"(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or".

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

"(i) subparagraph (H) of section 152(d)(2), or

"(ii) paragraph (3) of section 152(d).".

SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) is amended by striking "In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))" and inserting "In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual".

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

"(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

"(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

"(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

"(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.".

SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

"(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.".

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking "the first sentence of section 152(b)(3)" and inserting "subparagraph (A) of section 152(b)(3)".

SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

"(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable

year with respect to such individual (or would be so entitled but for section 152(e)).

"(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

"(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking "(3)(E)" and inserting "(3)(C)".

(3) Section 32(m) is amended by striking "subsections (c)(1)(F)" and inserting "subsections (c)(1)(E)".

SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 is amended to read as follows:

"(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.".

SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(2) Section 21(e)(5) is amended—

(A) by striking "paragraph (2) or (4) of" in subparagraph (A), and

(B) by striking "within the meaning of section 152(e)(1)" and inserting "as defined in section 152(e)(3)(A)".

(3) Section 21(e)(6)(B) is amended by striking "section 151(c)(3)" and inserting "section 152(f)(1)".

(4) Section 25B(c)(2)(B) is amended by striking "151(c)(4)" and inserting "152(f)(2)".

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking "paragraphs (1) through (8) of section 152(a)" both places it appears and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(B) Section 51(i)(1)(C) is amended by striking "152(a)(9)" and inserting "152(d)(2)(H)".

(6) Section 72(t)(2)(D)(i)(III) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(7) Section 72(t)(7)(A)(iii) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(8) Section 42(i)(3)(D)(ii)(I) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(9) Subsections (b) and (c)(1) of section 105 are amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(10) Section 120(d)(4) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(11) Section 125(e)(1)(D) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(12) Section 129(c)(2) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(13) The first sentence of section 132(h)(2)(B) is amended by striking "151(c)(3)" and inserting "152(f)(1)".

(14) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(16) Section 170(g)(3) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(17) Section 213(a) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(18) The second sentence of section 213(d)(11) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(19) Section 220(d)(2)(A) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(20) Section 221(d)(4) is amended by inserting "(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)" after "section 152".

(21) Section 529(e)(2)(B) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(22) Section 2032A(c)(7)(D) is amended by striking "section 151(c)(4)" and inserting "section 152(f)(2)".

(23) Section 2057(d)(2)(B) is amended by inserting ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

(24) Section 7701(a)(17) is amended by striking "152(b)(4), 682," and inserting "682".

(25) Section 7702B(f)(2)(C)(iii) is amended by striking "paragraphs (1) through (8) of section 152(a)" and inserting "subparagraphs (A) through (G) of section 152(d)(2)".

(26) Section 7703(b)(1) is amended—

(A) by striking "151(c)(3)" and inserting "152(f)(1)", and

(B) by striking "paragraph (2) or (4) of".

SEC. 208. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 2004.

TITLE III—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

SEC. 301. RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 2004.

SEC. 302. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Section 9812(f) is amended—

(1) by striking "and" at the end of paragraph (1), and

(2) by striking paragraph (2) and inserting the following new paragraphs:

"(2) on or after January 1, 2004, and before the date of the enactment of the Working Families Tax Relief Act of 2004, and

"(3) after December 31, 2005.".

(b) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

(c) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg–5(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

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

SEC. 303. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) EXTENSION OF CREDIT.—

(1) IN GENERAL.—Section 51(c)(4) is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51A(f) is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2003.

SEC. 304. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking "and 2003" and inserting "2003, 2004, and 2005".

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

SEC. 305. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to articles brought into the United States after December 31, 2003.

SEC. 306. DEDUCTION FOR CORPORATE DONATIONS OF SCIENTIFIC PROPERTY AND COMPUTER TECHNOLOGY.

(a) IN GENERAL.—Section 170(e)(6)(G) is amended by striking "2003" and inserting "2005".

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

SEC. 307. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking "or 2003" and inserting ", 2003, 2004, or 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003.

SEC. 308. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

SEC. 309. CERTAIN NEW YORK LIBERTY ZONE BENEFITS.

(a) EXTENSION OF TAX-EXEMPT BOND FINANCING.—Subparagraph (D) of section 1400L(d)(2) is amended by striking "2005" and inserting "2010".

(b) EXTENSION OF ADVANCE REFUNDINGS.—Section 1400L(e)(1) is amended by striking "2005" and inserting "2006".

(c) CLARIFICATION OF BONDS ELIGIBLE FOR ADVANCE REFUNDING.—Section 1400L(e)(2)(B) (relating to bonds described) is amended by striking ", or" and inserting "or the Municipal Assistance Corporation, or".

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

SEC. 310. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking "December 31, 2003" both places it appears and inserting "December 31, 2005".

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking "January 1, 2004" each place it appears and inserting "January 1, 2006".

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking "December 31, 2008" and inserting "December 31, 2010", and

(ii) by striking "2008" in the heading and inserting "2010".

(B) Section 1400B(g)(2) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(C) Section 1400F(d) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2004.

(2) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—The amendment made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 311. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

"(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—

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

"(B) TERMINATION.—The Secretary may not make any disclosure under this paragraph after December 31, 2005.".

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

SEC. 312. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking "RULE FOR 2000, 2001, 2002, AND 2003.—" and inserting "RULE FOR TAXABLE YEARS 2000 THROUGH 2005.—", and

(2) by striking "or 2003" and inserting "2003, 2004, or 2005".

(b) CONFORMING PROVISIONS.—

(1) Section 904(h) is amended by striking "or 2003" and inserting "2003, 2004, or 2005".

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004 or 2005.

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

SEC. 313. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking "January 1, 2004" and inserting "January 1, 2006".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003.

SEC. 314. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking "January 1, 2004" and inserting "January 1, 2006".

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

SEC. 315. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 316. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 317. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.

Section 6103(l)(13)(D) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 318. ELIMINATION OF PHASEOUT OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES FOR 2004 AND 2005.

(a) IN GENERAL.—Paragraph (2) of section 30(b) is amended to read as follows:

"(2) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2005, the credit otherwise allowable under subsection (a) (determined after the application of paragraph (1)) shall be reduced by 75 percent.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

SEC. 319. ELIMINATION OF PHASEOUT FOR DEDUCTION FOR CLEAN-FUEL VEHICLE PROPERTY FOR 2004 AND 2005.

(a) IN GENERAL.—Subparagraph (B) of section 179A(b)(1) is amended to read as follows:

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2005, the limit otherwise allowable under subparagraph (A) shall be reduced by 75 percent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2003.

SEC. 320. DISCLOSURES RELATING TO TERRORIST ACTIVITIES.

(a) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are both amended by striking "December 31, 2003" and inserting "December 31, 2005".

(b) DISCLOSURE OF TAXPAYER IDENTITY TO LAW ENFORCEMENT AGENCIES INVESTIGATING TERRORISM.—Subparagraph (A) of section 6103(i)(7) is amended by adding at the end the following new clause:

"(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

SEC. 321. JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Paragraph (2) of section 8021(f) (relating to joint reviews) is amended by striking "2004" and inserting "2005".

(b) REPORT.—Subparagraph (C) of section 8022(3) (regarding reports) is amended—

(1) by striking "2004" and inserting "2005", and

(2) by striking "with respect to—" and all that follows and inserting "with respect to the matters addressed in the joint review referred to in section 8021(f)(2).".

(c) TIME FOR JOINT REVIEW.—The joint review required by section 8021(f)(2) of the Internal Revenue Code of 1986 to be made before June 1, 2004, shall be treated as timely if made before June 1, 2005.

SEC. 322. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking "2003" each place it appears in the text and headings and inserting "2005".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended—

(A) in the text by striking "or 2002" each place it appears and inserting "2002, or 2004", and

(B) in the heading by striking "OR 2002" and inserting "2002, OR 2004".

(2) Subparagraph (A) of section 220(j)(4) is amended by striking "and 2002" and inserting "2002, and 2004".

(3) Subparagraph (C) of section 220(j)(2) is amended to read as follows:

"(C) NO LIMITATION FOR 2000 OR 2003.—The numerical limitation shall not apply for 2000 or 2003.".

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

(d) TIME FOR FILING REPORTS, ETC.—

(1) The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2004, shall be treated as timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

(2) The determination and publication required by section 220(j)(5) of such Code with respect to calendar year 2004 shall be treated as timely if made before the close of the 120-day period beginning on the date of the enactment of this Act. If the determination under the preceding sentence is that 2004 is a cut-off year under section 220(i) of such Code, the cut-off date under such section 220(i) shall be the last day of such 120-day period.

TITLE IV—TAX TECHNICAL CORRECTIONS

SEC. 401. AMENDMENTS RELATED TO MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003.

(a) AMENDMENTS RELATED TO SECTION 1201 OF THE ACT.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (Q), by striking the period at the end of subparagraph (R) and inserting ", and", and by adding at the end the following new subparagraph:

"(S) section 223(f)(4) (relating to additional tax on health savings account distributions not used for qualified medical expenses).

(2) Paragraph (3) of section 35(g) is amended to read as follows:

"(3) MEDICAL AND HEALTH SAVINGS ACCOUNTS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) or from a health savings account (as defined in section 223(d)) shall not be taken into account under subsection (a).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

SEC. 402. AMENDMENTS RELATED TO JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.

(a) AMENDMENTS RELATED TO SECTION 302 OF THE ACT.—

(1) Clause (i) of section 1(h)(1)(D) is amended by inserting "(determined without regard to paragraph (11))" after "net capital gain".

(2) Subclause (I) of section 1(h)(11)(B)(iii) is amended—

(A) by striking "section 246(c)(1)" and inserting "section 246(c)",

(B) by striking "120-day period" and inserting "121-day period", and

(C) by striking "90-day period" and inserting "91-day period".

(3) Clause (ii) of section 1(h)(11)(D) is amended by striking "an individual" and inserting "a taxpayer to whom this section applies".

(4) Paragraph (4) of section 691(c) is amended by striking "of any gain".

(5)(A) Subparagraph (B) of section 854(b)(1) is amended—

(i) by striking clauses (iii) and (iv), and

(ii) by amending clause (i) to read as follows:

"(i) IN GENERAL.—In any case in which—

"(I) a dividend is received from a regulated investment company (other than a dividend to which subsection (a) applies),

"(II) such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend, and

"(III) the qualified dividend income of such investment company for such taxable year is less than 95 percent of its gross income,

then, in computing qualified dividend income, there shall be taken into account only that portion of such

dividend designated by the regulated investment company.".

(B) Subparagraph (C) of section 854(b)(1) is amended to read as follows:

"(C) LIMITATIONS.—

"(i) SUBPARAGRAPH (A).—The aggregate amount which may be designated as dividends under subparagraph (A) shall not exceed the aggregate dividends received by the company for the taxable year.

"(ii) SUBPARAGRAPH (B).—The aggregate amount which may be designated as qualified dividend income under subparagraph (B) shall not exceed the sum of—

"(I) the qualified dividend income of the company for the taxable year, and

"(II) the amount of any earnings and profits which were distributed by the company for such taxable year and accumulated in a taxable year with respect to which this part did not apply.".

(C) Paragraph (2) of section 854(b) is amended by striking "as a dividend for purposes of the maximum rate under section 1(h)(11) and" and inserting "as qualified dividend income for purposes of section 1(h)(11) and as dividends for purposes of".

(D) Paragraph (5) of section 854(b) is amended to read as follows:

"(5) QUALIFIED DIVIDEND INCOME.—For purposes of this subsection, the term 'qualified dividend income' has the meaning given such term by section 1(h)(11)(B).".

(E) Paragraph (2) of section 857(c) is amended to read as follows:

"(2) SECTION (1)(h)(11).—

"(A) IN GENERAL.—In any case in which—

"(i) a dividend is received from a real estate investment trust (other than a capital gain dividend), and

"(ii) such trust meets the requirements of section 856(a) for the taxable year during which it paid such dividend,

then, in computing qualified dividend income, there shall be taken into account only that portion of such dividend designated by the real estate investment trust.

"(B) LIMITATION.—The aggregate amount which may be designated as qualified dividend income under subparagraph (A) shall not exceed the sum of—

"(i) the qualified dividend income of the trust for the taxable year,

"(ii) the excess of—

"(I) the sum of the real estate investment trust taxable income computed under section 857(b)(2) for the preceding taxable year and the income subject to tax by reason of the application of the regulations under section 337(d) for such preceding taxable year, over

"(II) the sum of the taxes imposed on the trust for such preceding taxable year under section 857(b)(1) and by reason of the application of such regulations, and

"(iii) the amount of any earnings and profits which were distributed by the trust for such taxable year and accumulated in a taxable year with respect to which this part did not apply.

"(C) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as qualified dividend income shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 60 days after the close of its taxable year.

"(D) QUALIFIED DIVIDEND INCOME.—For purposes of this paragraph, the term 'qualified dividend income' has the meaning given such term by section 1(h)(11)(B).".

(F) With respect to any taxable year of a regulated investment company or real estate investment trust ending on or before November 30, 2003, the period for providing notice of the qualified dividend amount to shareholders under sections 854(b)(2) and 857(c)(2)(C) of the Internal Revenue Code of 1986, as amended by this section, shall not expire before the date on which the statement under section 6042(c) of such Code is required to be furnished with respect to the last calendar year beginning in such taxable year.

(6) Paragraph (2) of section 302(f) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended to read as follows:

"(2) PASS-THRU ENTITIES.—In the case of a pass-thru entity described in subparagraph (A), (B), (C), (D), (E), or (F) of section 1(h)(10) of the Internal Revenue Code of 1986, as amended by this Act, the amendments made by this section shall apply to taxable years ending after December 31, 2002; except that dividends received by such an entity on or before such date shall not be treated as qualified dividend income (as defined in section 1(h)(11)(B) of such Code, as added by this Act).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SEC. 403. AMENDMENTS RELATED TO JOB CREATION AND WORKER ASSISTANCE ACT OF 2002.

(a) AMENDMENTS RELATED TO SECTION 101 OF THE ACT.—

(1) Clause (i) of section 168(k)(2)(B) is amended to read as follows:

"(i) IN GENERAL.—The term 'qualified property' includes any property if such property—

"(I) meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(II) has a recovery period of at least 10 years or is transportation property,

"(III) is subject to section 263A, and

"(IV) meets the requirements of clause (ii) or (iii) of section 263A(f)(1)(B) (determined as if such clauses also apply to property which has a long useful life (within the meaning of section 263A(f))).".

(2)(A) Subparagraph (D) of section 168(k)(2) is amended by adding at the end the following new clauses:

"(iii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

"(I) property is originally placed in service after September 10, 2001, by the lessor of such property,

"(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service, and

"(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale.

"(iv) LIMITATIONS RELATED TO USERS AND RELATED PARTIES.—The term 'qualified property' shall not include any property if—

"(I) the user of such property (as of the date on which such property is originally placed in service) or a person which is related (within the meaning of section 267(b) or 707(b)) to such user or to the taxpayer had a written binding contract in effect for the acquisition of such property at any time on or before September 10, 2001, or

"(II) in the case of property manufactured, constructed, or produced for such user's or person's own use, the manufacture, construction, or production of such property began at any time on or before September 10, 2001.".

(B) Clause (ii) of section 168(k)(2)(D) is amended by inserting "clause (iii) and" before "subparagraph (A)(ii)".

(b) AMENDMENTS RELATED TO SECTION 102 OF THE ACT.—

(1) Subparagraph (H) of section 172(b)(1) is amended by striking "a taxpayer which has".

(2) In the case of a net operating loss for a taxable year ending during 2001 or 2002—

(A) an application under section 6411(a) of the Internal Revenue Code of 1986 with respect to such loss shall not fail to be treated as timely filed if filed before November 1, 2002,

(B) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before November 1, 2002, and

(C) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before November 1, 2002.

(3) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147) is amended by striking "before January 1, 2003" and inserting "after December 31, 1990".

(4)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking "attributable to carryovers".

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—

(i) by striking "for taxable years" and inserting "from taxable years", and

(ii) by striking "carryforwards" and inserting "carryovers".

(c) AMENDMENTS RELATED TO SECTION 301 OF THE ACT.—

(1) Subparagraph (D) of section 1400L(a)(2) is amended—

(A) by striking "subchapter B" and inserting "subchapter A", and

(B) in clause (ii), by striking "subparagraph (B)" and inserting "this paragraph".

(2) Subparagraph (D) of section 1400L(b)(2) is amended by inserting ", and clause (iv) thereof shall be applied by substituting 'qualified New York Liberty Zone property' for 'qualified property'" before the period at the end.

(3) Subsection (c) of section 1400L is amended by adding at the end the following new paragraph:

"(5) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.".

(4) Paragraph (2) of section 1400L(f) is amended by inserting before the period ", determined without regard to subparagraph (C)(i) thereof".

(d) AMENDMENT RELATED TO SECTION 405 OF THE ACT.—The last sentence of section 4006(a)(3)(E)(iii)(IV) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)(iii)(IV)) is amended—

(1) by inserting "or this subparagraph" after "this clause" both places it appears, and

(2) by inserting "(other than sections 4005, 4010, 4011, and 4043)" after "subsections".

(e) AMENDMENT RELATED TO SECTION 411 OF THE ACT.—Subparagraph (B) of section 411(c)(2) of the Job Creation and Worker Assistance Act of 2002 is amended by striking "Paragraph (2)" and inserting "Paragraph (1)".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Job Creation and Worker Assistance Act of 2002 to which they relate.

SEC. 404. AMENDMENTS RELATED TO ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.

(a) AMENDMENT RELATED TO SECTION 401 OF THE ACT.—Clause (i) of section 530(d)(2)(C) is amended by striking "higher" after "qualified".

(b) AMENDMENTS RELATED TO SECTION 611 OF THE ACT.—

(1) Paragraph (3) of section 45A(c) is amended by inserting ", except that the base period taken into account for purposes of such adjustment shall be the calendar quarter beginning October 1, 1993" before the period at the end.

(2) Subparagraph (A) of section 415(d)(4) is amended by adding at the end the following new sentence: "This subparagraph shall also apply for purposes of any provision of this title that provides for adjustments in accordance with the method contained in this subsection, except to the extent provided in such provision.".

(c) AMENDMENT RELATED TO SECTION 614 OF THE ACT.—Clause (ii) of section 4972(c)(6)(A) is amended to read as follows:

"(ii) the amount of contributions described in section 401(m)(4)(A), or".

(d) AMENDMENT RELATED TO SECTION 637 OF THE ACT.—Clause (i) of section 408(p)(6)(A) is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, amounts described in section 6051(a)(3) shall be determined without regard to section 3401(a)(3).".

(e) AMENDMENT RELATED TO SECTION 641 OF THE ACT.—Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A).".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

SEC. 405. AMENDMENTS RELATED TO COMMUNITY RENEWAL TAX RELIEF ACT OF 2000.

(a) AMENDMENTS RELATED TO SECTION 401 OF THE ACT.—

(1) Subsection (c) of section 1234B is amended by adding at the end the following new sentence: "The Secretary may prescribe regulations regarding the status of contracts the values of which are determined directly or indirectly by reference to any index which becomes (or ceases to be) a narrow-based security index (as defined for purposes of section 1256(g)(6)).".

(2) Paragraph (6) of section 1256(g) is amended by adding at the end the following new sentence: "The Secretary may prescribe regulations regarding the status of options the values of which are determined directly or indirectly by reference to any index which becomes (or ceases to be) a narrow-based security index (as so defined).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 401 of the Community Renewal Tax Relief Act of 2000.

SEC. 406. AMENDMENTS RELATED TO TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENT RELATED TO SECTION 211 OF THE ACT.—Subparagraph (B) of section 529(c)(5) is amended to read as follows:

"(B) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) unless the new beneficiary is—

"(i) assigned to the same generation as (or a higher generation than) the old beneficiary (determined in accordance with section 2651), and

"(ii) a member of the family of the old beneficiary.".

(b) AMENDMENT RELATED TO SECTION 213 OF THE ACT.—Clause (iii) of section 530(d)(4)(B) is amended by striking "account holder" and inserting "designated beneficiary".

(c) AMENDMENT RELATED TO SECTION 226 OF THE ACT.—Section 1397E is amended by adding at the end the following new subsection:

"(i) S CORPORATIONS.—In the case of a qualified zone academy bond held by an S corporation which is an eligible taxpayer—

"(1) each shareholder shall take into account such shareholder's pro rata share of the credit, and

"(2) no basis adjustments to the stock of the corporation shall be made under section 1367 on account of this section.".

(d) AMENDMENT RELATED TO SECTION 311 OF THE ACT.—Subparagraph (B) of section 55(b)(3) is amended by striking "the amount on which a tax is determined under" and inserting "an amount equal to the excess described in".

(e) AMENDMENTS RELATED TO SECTION 1001 OF THE ACT.—

(1) Paragraph (2) of section 1259(c) is amended by striking "The term 'constructive sale' shall not include any contract" and inserting "A taxpayer shall not be treated as having made a constructive sale solely because the taxpayer enters into a contract".

(2) Subparagraphs (A) and (B)(i) of section 1259(c)(3) are each amended by striking "be treated as a constructive sale" and inserting "cause a constructive sale".

(3) Clause (i) of section 1259(c)(3)(A) is amended by striking "before the end of" and inserting "on or before".

(4) Clause (ii) of section 1259(c)(3)(B) is amended by striking "substantially similar".

(5) Subclause (I) of section 1259(c)(3)(B)(ii) is amended to read as follows:

> *"(I) which would (but for this subparagraph) cause the requirement of subparagraph (A)(iii) not to be met with respect to the transaction described in clause (i) of this subparagraph,".*

(6) Subclause (II) of such section is amended by inserting "on or" before "before the 30th day".

(7) The heading for subparagraph (B) of section 1259(c)(3) is amended by striking "POSITIONS WHICH ARE REESTABLISHED" and inserting "CERTAIN CLOSED TRANSACTIONS WHERE RISK OF LOSS ON APPRECIATED FINANCIAL POSITION DIMINISHED".

(f) AMENDMENTS RELATED TO SECTION 1015 OF THE ACT.—

(1) Section 246(c)(1)(A) is amended by striking "90-day period" and inserting "91-day period".

(2) Section 246(c)(2)(B) is amended—

(A) by striking "180-day period" and inserting "181-day period", and

(B) by striking "90-day period" and inserting "91-day period".

(g) AMENDMENTS RELATED TO SECTION 1053 OF THE ACT.—

(1) Section 901(k)(1)(A)(i) is amended by striking "30-day period" and inserting "31-day period".

(2) Section 901(k)(3)(B) is amended—

(A) by striking "90-day period" and inserting "91-day period", and

(B) by striking "30-day period" and inserting "31-day period".

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

SEC. 407. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

(a) AMENDMENT RELATED TO SECTION 1307 OF THE ACT.—Subsection (b) of section 1377 (relating to post-termination transition period) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR AUDIT RELATED POST-TERMINATION TRANSITION PERIODS.—

"(A) NO APPLICATION TO CARRYOVERS.—Paragraph (1)(B) shall not apply for purposes of section 1366(d)(3).

"(B) LIMITATION ON APPLICATION TO DISTRIBUTIONS.—Paragraph (1)(B) shall apply to a distribution described in section 1371(e) only to the extent that the amount of such distribution does not exceed the aggregate increase (if any) in the accumulated adjustments account (within the meaning of section 1368(e)) by reason of the adjustments referred to in such paragraph.".

(b) AMENDMENTS RELATED TO SECTION 1432 OF THE ACT.—Paragraph (26) of section 401(a) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) through (I) as subparagraphs (C) through (H), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

SEC. 408. CLERICAL AMENDMENTS.

(a) INTERNAL REVENUE CODE OF 1986.—

(1) Subclause (II) of section 1(g)(7)(B)(ii) is amended by striking "10 percent." and inserting "10 percent".

(2) Clause (ii) of section 1(h)(6)(A) is amended—

(A) in subclause (I), by striking "(5)(B)" and inserting "(4)(B)", and

(B) in subclause (II), by striking "(5)(A)" and inserting "(4)(A)".

(3) Subclause (I) of section 42(d)(2)(D)(iii) is amended by striking "section 179(b)(7)" and inserting "section 179(d)(7)".

(4) Subsection (f) of section 72 is amended by striking "Economic Growth and Tax Relief Reconciliation Act of 2001" and inserting "Economic Growth and Tax Relief Reconciliation Act of 2001)".

(5)(A) Section 138 and paragraph (2) of section 26(b) are each amended by striking "Medicare+Choice MSA" each place it appears in the text and inserting "Medicare Advantage MSA".

(B) The heading for section 138 is amended to read as follows:

"SEC. 138. MEDICARE ADVANTAGE MSA.".

(C) The heading for subsection (b) of section 138 is amended by striking "MEDICARE+CHOICE MSA" and inserting "MEDICARE ADVANTAGE MSA".

(D) The heading for paragraph (2) of section 138(c) is amended by striking "MEDICARE+CHOICE MSA" and inserting "MEDICARE ADVANTAGE MSA".

(E) Clause (i) of section 138(c)(2)(C) is amended by striking "Medicare+Choice MSAs" and inserting "Medicare Advantage MSAs".

(F) Subsection (f) of section 138 is amended by striking "Medicare+Choice MSA's" and inserting "Medicare Advantage MSAs".

(G) The item relating to section 138 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

"Sec. 138. Medicare Advantage MSA.".

(6) Clause (ii) of section 168(k)(2)(D) is amended—

(A) by inserting "is" after "if property", and

(B) by striking "is" in subclause (I).

(7) Each of the following provisions is amended by inserting "Robert T. Stafford" before "Disaster Relief and Emergency Assistance Act":

(A) Section 165(i)(1).

(B) Section 165(k).

(C) Section 1033(h)(3).

(D) Section 5064(b)(3).

(E) Section 5708(a).

(8) The heading for subparagraph (F) of section 168(k)(2) is amended by striking "MINIUMUM" and inserting "MINIMUM".

(9) Paragraph (1) of section 246A(b) is amended by striking "section 243(c)(4)" and inserting "section 243(d)(4)".

(10) Clause (ii) of section 263(g)(2)(B) is amended by striking "1278" and inserting "1276".

(11) Clause (ii) of section 403(b)(7)(A) is amended by striking "section 3121(a)(1)(D)" and inserting "section 3121(a)(5)(D)".

(12) Paragraph (1) of section 408(a) is amended by striking "457(e)(16)" and inserting "457(e)(16),".

(13) Paragraph (2) of section 408(n) is amended by striking "section 101(6)" and inserting "paragraph (6) or (7) of section 101".

(14) The table contained in section 411(a)(12)(B) is amended by striking the last line and inserting the following:

"6 or more ..... 100.".

(15) Paragraph (7) of section 414(q) is amended by striking "section" and inserting "subsection".

(16) Subparagraph (A) of section 416(i)(1) is amended in the matter following clause (iii) by striking "in the case of plan years" and inserting "In the case of plan years".

(17) Subparagraph (C) of section 415(c)(7) is amended by striking "subparagraph (D)" and inserting "subparagraph (B)".

(18) The item relating to section 1234B in the table of sections for part IV of subchapter P of chapter 1 is amended to read as follows:

"Sec. 1234B. Gains or losses from securities futures contracts.".

(19) Subsection (h) of section 1296 is amended by striking "paragraphs (2) and (3) of section 851(b)" and inserting "section 851(b)(2)".

(20) The table of sections for part II of subchapter A of chapter 11 is amended by inserting after the item relating to section 2010 the following new item:

"Sec. 2011. Credit for State death taxes.".

(21) The table of sections for subchapter A of chapter 13 is amended by inserting after the item relating to section 2603 the following new item:

"Sec. 2604. Credit for certain State taxes.".

(22) Subsection (c) of section 4973 is amended by striking "subsection (a)(2)" and inserting "subsection (a)(3)".

(23) Paragraph (2) of section 4978(a) is amended by striking "60 percent" and inserting "(60 percent".

(24) Paragraph (4) of section 6103(p) is amended by striking "subsection (l)(16) or (17)" each place it appears and inserting "subsection (l)(16) or (18)".

(b) OTHER LAWS.—

(1) Subsection (c) of section 156 of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A–623) is amended in the first sentence by inserting "than" after "not later".

(2) Paragraph (6) of section 1(a) of Public Law 107–22 shall be applied by substituting "part VIII" for "part VII" in such paragraph.

(3) Subparagraph (A) of section 1(b)(3) of Public Law 107–22 shall be applied by substituting "EDUCATIONAL" for "EDUCATION" in the matter preceding subparagraph (A) in such section.

(4) Paragraph (1) of section 204(e) of the Railroad Retirement and Survivors' Improvement Act of 2001 shall be applied by substituting "Section 24(d)(2)(A)(iii)" for "Section 24(d)(3)(A)(iii)" in such paragraph.

(5) Paragraph (2) of section 412(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting "Section 221(f)(1)" for "Section 221(g)(1)" in such paragraph.

(6) Subsection (b) of section 531 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting "section" for "subsection" in such subsection.

(7) Paragraph (3) of section 619(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting "after the item relating to section 45D" for "at the end" in such paragraph.

(8) The table contained in section 203(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(4)(B)) is amended by striking the last line and inserting the following:

"6 or more ..... 100.".

(9) Paragraph (3) of section 652(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by inserting "each place it appears" before "in the next to last sentence" in such paragraph.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes.".

For consideration of the House amendment and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
TOM DELAY,
Managers on the Part of the House.

CHUCK GRASSLEY,
DON NICKLES,
TRENT LOTT,
MAX BAUCUS,
BLANCHE L. LINCOLN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 1308), to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out all of the Senate amendment after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

I. EXTENSION OF CERTAIN EXPIRING PROVISIONS

A. Extension of the Child Tax Credit, Acceleration of Refundability of the Child Tax Credit and Treatment of Combat Pay as Earned Income for Purposes of the Child Tax Credit and Earned Income Credit

(Secs. 101–104 of the conference agreement, sec. 101 of the House bill, secs. 101–103 of the Senate amendment, and sec. 24 and 32 of the Code)

PRESENT LAW

In general

For 2004, an individual may claim a $1,000 tax credit for each qualifying child under the age of 17. In general, a qualifying child is an individual for whom the taxpayer can claim a dependency exemption and who is the taxpayer's son or daughter (or descendent of either), stepson or stepdaughter (or descendent of either), or eligible foster child.

The child tax credit is scheduled to revert to $700 in 2005, and then, over several years, increase to $1,000.

Table 1, below, shows the scheduled amount of the child tax credit.

TABLE 1.—SCHEDULED AMOUNT OF THE CHILD TAX CREDIT

Taxable year	Credit amount per child
2001–2004	[illegible]
2005–2008	700
2009	800
2010 [1]	1,000

[1] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA (the ''Economic Growth and Tax Relief Reconciliation Act of 2001,'' Pub. L. No. 107–16).

The child tax credit is phased out for individuals with income over certain thresholds. Specifically, the otherwise allowable child tax credit is reduced by $50 for each $1,000 (or fraction thereof) of modified adjusted gross income over $75,000 for single individuals or heads of households, $110,000 for married individuals filing joint returns, and $55,000 for married individuals filing separate returns.[1] The length of the phase-out range depends on the number of qualifying children. For example, the phase-out range for a single individual with one qualifying child is between $75,000 and $95,000 of modified adjusted gross income. The phase-out range for a single individual with two qualifying children is between $75,000 and $115,000.

The amount of the tax credit and the phase-out ranges are not adjusted annually for inflation.

Refundability

For 2004, the child credit is refundable to the extent of 10 percent of the taxpayer's taxable earned income (which is taken into account in determining taxable income) in excess of $10,750.[2] The percentage is increased to 15 percent for taxable years 2005 and thereafter. Families with three or more children are allowed a refundable credit for the amount by which the taxpayer's social security taxes exceed the taxpayer's earned income credit, if that amount is greater than the refundable credit based on the taxpayer's taxable earned income in excess of $10,750 (for 2004). The refundable portion of the child credit does not constitute income and is not treated as resources for purposes of determining eligibility or the amount or nature of benefits or assistance under any Federal program or any State or local program financed with Federal funds. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA applies to the 15-percent rule for allowing refundable child credits.

Alternative minimum tax liability

The child credit is allowed against the individual's regular income tax and alternative minimum tax. For taxable years beginning after December 31, 2010, the sunset provision of EGTRRA ap-

[1] Modified adjusted gross income is the taxpayer's total gross income plus certain amounts excluded from gross income (i.e., excluded income of U.S. citizens or residents living abroad (sec. 911); residents of Guam, American Samoa, and the Northern Mariana Islands (sec. 931); and residents of Puerto Rico (sec. 933)).

[2] The $10,750 amount is indexed for inflation.

plies to the rules allowing the child credit against the alternative minimum tax.

HOUSE BILL

The bill increases the credit to $1,000 for taxable years 2005–2009. Therefore, the maximum child credit is $1,000 per child for taxable years 2003–2010.[3] The bill also accelerates to 2003 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,500 (with indexing). Finally, the bill provides that the beginning point of the phase-out range for the child credit is $150,000 for married individuals filing joint returns ($75,000 for unmarried individuals and married individuals filing separately) for taxable years beginning after December 31, 2002, and before January 1, 2011. All modifications to the child credit under the bill are subject to the sunset provision of EGTRRA.

Effective date.—Taxable years beginning after December 31, 2002.

SENATE AMENDMENT

The Senate amendment accelerates to 2003 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,500 (with indexing). The Senate amendment also provides that taxpayers eligible for such additional refundable child credit amount will receive this additional amount as an advance payment. No advance payments may be made after December 31, 2003. Also, the Senate amendment provides that the beginning point of the phase-out range for the credit for married individuals filing joint returns is increased to $115,000 in 2008 and 2009 and $150,000 in 2010. It also provides that the beginning point for such phase-out range in the case of unmarried individuals and married individuals filing separately will be one-half of the beginning point of the phase-out range for married individuals filing joint returns for taxable years beginning in 2008 through 2010. Finally, the Senate amendment provides that any amount excluded from gross income under section 112 of the Code (relating to certain combat zone compensation) is treated as earned income for purposes of the calculation of the child tax credit. All modifications to the child credit under the Senate amendment are subject to the sunset provision of EGTRRA.

Effective date.—The provision is effective for taxable years beginning after December 31, 2002.

CONFERENCE AGREEMENT

In general

The conference agreement increases the child credit to $1,000 for taxable years 2005–2009. Therefore, the maximum child tax credit is $1,000 per child for taxable years 2005–2010. All modifica-

[3] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

tions to the child credit under the conference agreement are subject to the sunset provision of EGTRRA.[4]

Refundability

The conference agreement accelerates to 2004 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,750 (with indexing).

Combat pay treated as earned income

The conference agreement provides that combat pay that is otherwise excluded from gross income under section 112 is treated as earned income which is taken into account in computing taxable income for purposes of calculating the refundable portion of the child credit.

The conference agreement provides that any taxpayer may elect to treat combat pay that is otherwise excluded from gross income under section 112 as earned income for purposes of the earned income credit. This election is available with respect to any taxable year ending after the date of enactment and before January 1, 2006.

Effective dates

The provision generally applies to taxable years beginning after December 31, 2004. The provision relating to the acceleration of the refundability of the child credit applies to taxable years beginning after December 31, 2003. The provision relating to the treatment of combat pay as earned income for purposes of the child credit is effective for taxable years beginning after December 31, 2003. The earned income credit election is effective for taxable years ending after the date of enactment and before January 1, 2006.

B. Extend Marriage Penalty Relief

(Sec. 101 of the conference agreement and secs. 1 and 63 of the Code)

1. Standard deduction marriage penalty relief (sec. 63 of the Code)

PRESENT LAW

Marriage penalty

A married couple generally is treated as one tax unit that must pay tax on the couple's total taxable income. Although married couples may elect to file separate returns, the rate schedules and other provisions are structured so that filing separate returns usually results in a higher tax than filing a joint return. Other rate schedules apply to single persons and to single heads of households.

A "marriage penalty" exists when the combined tax liability of a married couple filing a joint return is greater than the sum of the tax liabilities of each individual computed as if they were not married. A "marriage bonus" exists when the combined tax liability of a married couple filing a joint return is less than the sum of the

[4] The credit reverts to $500 in taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

tax liabilities of each individual computed as if they were not married.

Basic standard deduction

Taxpayers who do not itemize deductions may choose the basic standard deduction (and additional standard deductions, if applicable),[5] which is subtracted from adjusted gross income ("AGI") in arriving at taxable income. The size of the basic standard deduction varies according to filing status and is adjusted annually for inflation.[6] In general, two unmarried individuals have standard deductions whose sum exceeds the standard deduction for a married couple filing a joint return. EGTRRA increased the basic standard deduction for a married couple filing a joint return, providing for a phase-in of the increase until the basic standard deduction for a married couple filing a joint return equaled twice the basic standard deduction for an unmarried individual filing a single return by 2009.[7] The Jobs and Growth Tax Relief Reconciliation Act of 2003 ("JGTRRA") accelerated the phase-in, providing that the basic standard deduction for a married couple filing a joint return equaled twice the basic standard deduction for an unmarried individual filing a single return for 2003 and 2004, reverting to the phase-in schedule provided by EGTRAA for 2005–2009.

Table 2, below, shows the standard deduction for married couples filing a joint return as a percentage of the standard deduction for single individuals during the phase-in period.

TABLE 2.—SCHEDULED AMOUNT OF THE BASIC STANDARD DEDUCTION FOR MARRIED COUPLES FILING JOINT RETURNS

Taxable year	Standard deduction for married couples filing joint returns as percentage of standard deduction for unmarried individuals returns
2005	174
2006	184
2007	187
2008	190
2009 and 2010 [1]	200

[1] The basic standard deduction increases are repealed for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

[5] Additional standard deductions are allowed with respect to any individual who is elderly (age 65 or over) or blind.

[6] For 2004 the basic standard deduction amounts are: (1) $4,850 for unmarried individuals; (2) $9,700 for married individuals filing a joint return; (3) $7,150 for heads of households; and (4) $4,850 for married individuals filing separately.

[7] The basic standard deduction for a married taxpayer filing separately will continue to equal one-half of the basic standard deduction for a married couple filing jointly; thus, the basic standard deduction for unmarried individuals filing a single return and for married couples filing separately will be the same after the phase-in period.

CONFERENCE AGREEMENT

The conference agreement increases the basic standard deduction amount for joint returns to twice the basic standard deduction amount for single returns effective for 2005–2008. Therefore, the basic standard deduction for joint returns is twice the basic standard deduction for single returns for taxable years 2005–2010. All modifications to the basic standard deduction under the conference agreement are subject to the sunset provision of EGTRRA.

Effective date.—The conference agreement provision is effective for taxable years beginning after December 31, 2004.

2. Increase the size of the 15-percent rate bracket for married couples filing joint returns (sec. 1 of the Code)

PRESENT LAW

In general

Under the Federal individual income tax system, an individual who is a citizen or resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions.

An individual's income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability.

Regular income tax liability

Regular income tax liability is determined by applying the regular income tax rate schedules (or tax tables) to the individual's taxable income and then is reduced by any applicable tax credits. The regular income tax rate schedules are divided into several ranges of income, known as income brackets, and the marginal tax rate increases as the individual's income increases. The income bracket amounts are adjusted annually for inflation. Separate rate schedules apply based on filing status: single individuals (other than heads of households and surviving spouses), heads of households, married individuals filing joint returns (including surviving spouses), married individuals filing separate returns, and estates and trusts. Lower rates may apply to capital gains.

In general, the bracket breakpoints for single individuals are approximately 60 percent of the rate bracket breakpoints for married couples filing joint returns.[8] The rate bracket breakpoints for married individuals filing separate returns are exactly one-half of the rate brackets for married individuals filing joint returns. A separate, compressed rate schedule applies to estates and trusts.

15-percent regular income tax rate bracket

EGTRRA increased the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return to twice the size of the corresponding rate bracket for a single individual filing a single return, phasing in the increase over four years, begin-

[8] Under present law, the rate bracket breakpoint for the 35-percent marginal tax rate is the same for single individuals and married couples filing joint returns.

ning in 2005. JGTRRA accelerated these increases, making the size of the 15-percent regular income tax rate bracket for a married couple filing a joint return equal to twice the size of the corresponding rate bracket for a single individual filing a single return for taxable years beginning in 2003 and 2004. For taxable years beginning after 2004, the applicable percentages will revert to those provided by EGTRRA. Table 3, below, shows the size of the 15-percent bracket during the phase-in period.

TABLE 3.—SCHEDULED SIZE OF THE 15-PERCENT RATE BRACKET FOR MARRIED COUPLES FILING JOINT RETURNS

Taxable year	End point of 15-percent rate bracket for married couples filing joint returns as percentage of end point of 15-percent rate bracket for unmarried individuals
2005	180
2006	187
2007	193
2008 through 2010[1]	200

[1] The increases in the 15-percent rate bracket for married couples filing a joint return are repealed for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement increases the size of the 15-percent rate bracket for joint returns to twice the size of the corresponding rate bracket for single returns effective for 2005–2007. Therefore, the size of the 15-percent rate bracket for joint returns is twice the size of the corresponding rate bracket for single returns for taxable years 2005–2010. The modification to the 15-percent rate bracket under the conference agreement is subject to the sunset provision of EGTRRA.

Effective date.—The conference agreement provision is effective for taxable years beginning after December 31, 2004.

C. Extend Size of 10-Percent Rate Bracket for Individuals

(Sec. 101 of the conference agreement and sec. 1 of the Code)

PRESENT LAW

In general

Under the Federal individual income tax system, an individual who is a citizen or a resident of the United States generally is subject to tax on worldwide taxable income. Taxable income is total gross income less certain exclusions, exemptions, and deductions. An individual may claim either a standard deduction or itemized deductions.

An individual's income tax liability is determined by computing his or her regular income tax liability and, if applicable, alternative minimum tax liability.

Regular income tax liability

Regular income tax liability is determined by applying the regular income tax rate schedules (or tax tables) to the individual's taxable income. This tax liability is then reduced by any applicable tax credits. The regular income tax rate schedules are divided into several ranges of income, known as income brackets, and the marginal tax rate increases as the individual's income increases. The income bracket amounts are adjusted annually for inflation. Separate rate schedules apply based on filing status: single individuals (other than heads of households and surviving spouses), heads of households, married individuals filing joint returns (including surviving spouses), married individuals filing separate returns, and estates and trusts. Lower rates may apply to capital gains.

Ten-percent regular income tax rate

EGTRRA created a new 10-percent rate that applied to the first $6,000 of taxable income for single individuals, $10,000 of taxable income for heads of households, and $12,000 for married couples filing joint returns, and provided a scheduled increase effective beginning in 2008 under which the $6,000 amount would increase to $7,000 and the $12,000 amount would increase to $14,000, with such amounts adjusted annually for inflation for taxable years beginning after December 31, 2008. JGTRRA accelerated the scheduled increases to 2003 and 2004 (with indexing). For 2004, the size of the 10-percent bracket for single individuals is $7,150 ($14,300 for married individuals filing a joint return). For 2005–2010, the size of the 10–percent bracket reverts to the levels provided under EGTRRA. Thus the amounts drop to $6,000 for single individuals, $10,000 for heads of households and $12,000 for married individuals filing a joint return) for 2005–2007. In 2008, the amounts will increase to $7,000 ($14,000 for married individuals filing a joint return). These amounts ($7,000 for single individuals, $10,000 for heads of households and $14,000 for married individuals) are adjusted annually for inflation for taxable years beginning after December 31, 2008. The 10-percent rate bracket will expire for taxable years beginning after December 31, 2010, under the sunset provision of EGTRRA.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the size of the 10-percent rate bracket through 2010. Specifically, the size of the 10-percent rate bracket for 2005 through 2010 is set at the 2003 level ($7,000 for single individuals, $10,000 for heads of households and $14,000

for married individuals) with annual indexing from 2003. The modifications to the 10-percent rate bracket under the conference agreement are subject to the sunset provision of EGTRRA.

Effective date.—The conference agreement provision is effective for taxable years beginning after December 31, 2004.

D. Extend Alternative Minimum Tax Exemption for Individuals

(Sec. 103 of the conference agreement and sec. 55 of the Code)

PRESENT LAW

The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $175,000 ($87,500 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income ("AMTI") as exceeds the exemption amount. The maximum tax rates on net capital gain and dividends used in computing the regular tax are used in computing the tentative minimum tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments.

The exemption amount is: (1) $45,000 ($58,000 for taxable years beginning before 2005) in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 ($40,250 for taxable years beginning before 2005) in the case of other unmarried individuals; (3) $22,500 ($29,000 for taxable years beginning before 2005) in the case of married individuals filing a separate return; and (4) $22,500 in the case of an estate or trust. The exemption amount is phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns, an estate, or a trust. These amounts are not indexed for inflation.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the increased alternative minimum tax exemption amounts to taxable years beginning in 2005.

Effective date.—The provision applies to taxable years beginning after December 31, 2004.

II. PROVISIONS RELATING TO THE MILITARY

A. Exclusion of Gain on Sale of a Principal Residence by a Member of the Uniformed Services or the Foreign Service

(Sec. 201 of the House bill and sec. 121 of the Code)

PRESENT LAW[9]

Under present law, an individual taxpayer may exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. To be eligible for the exclusion, the taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change of place of employment, health, or, to the extent provided under regulations, unforeseen circumstances is able to exclude an amount equal to the fraction of the $250,000 ($500,000 if married filing a joint return) that is equal to the fraction of the two years that the ownership and use requirements are met. There are no special rules relating to members of the uniformed services or the Foreign Service of the United States.

HOUSE BILL

Under the bill, an individual may elect to suspend for a maximum of five years the five-year test period for ownership and use during certain absences due to service in the uniformed services or the Foreign Service of the United States. The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service. If the election is made, the five-year period ending on the date of the sale or exchange of a principal residence does not include any period up to five years during which the taxpayer or the taxpayer's spouse is on qualified official extended duty as a member of the uniformed services or in the Foreign Service of the United States. For these purposes, qualified official extended duty is any period of extended duty while serving at a place of duty at least 150 miles away from the taxpayer's principal residence or under orders compelling residence in Government furnished quarters. Extended duty is defined as any period of duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period. The election may be made with respect to only one property for a suspension period.

Effective date.—The provision is effective for sales or exchanges after May 6, 1997.

SENATE AMENDMENT

No provision.

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[9] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[10]

B. Exclusion From Gross Income of Certain Death Gratuity Payments

(Sec. 202 of the House bill and sec. 134 of the Code)

PRESENT LAW[11]

Present law provides that qualified military benefits are not included in gross income. Generally, a qualified military benefit is any allowance or in-kind benefit (other than personal use of a vehicle) which: (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date. Generally, other than certain cost of living adjustments, no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income. Qualified military benefits include certain death gratuities. The amount of the military death gratuity benefit has been increased since September 9, 1986 to $6,000 pursuant to Chapter 75 of Title 10 of the United States Code. However, the amount of the exclusion from gross income was not increased to take into account this change.

HOUSE BILL

The bill extends the exclusion from gross income for military benefits to any adjustment to the amount of the death gratuity payable under Chapter 75 of Title 10 of the United States Code that is pursuant to a provision of law enacted before December 31, 1991, with respect to the death of certain members of the Armed services on active duty, inactive duty training, or engaged in authorized travel.

Effective date.—The provision is effective with respect to deaths occurring after September 10, 2001.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[12]

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[10] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[11] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[12] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

C. Exclusion for Amounts Received Under Department of Defense Homeowners Assistance Program

(Sec. 203 of the House bill and sec. 132 of the Code)

PRESENT LAW [13]

Homeowners Assistance Program payment

The Department of Defense Homeowners Assistance Program ("HAP") provides payments to certain employees and members of the Armed Forces to offset the adverse effects on housing values that result from a military base realignment or closure.[14]

In general, under HAP, eligible individuals receive either: (1) a cash payment as compensation for losses that may be or have been sustained in a private sale, in an amount not to exceed the difference between (a) 95 percent of the fair market value of their property prior to public announcement of intention to close all or part of the military base or installation and (b) the fair market value of such property at the time of the sale; or (2) as the purchase price for their property, an amount not to exceed 90 percent of the prior fair market value as determined by the Secretary of Defense, or the amount of the outstanding mortgages.

Tax treatment

Unless specifically excluded, gross income for Federal income tax purposes includes all income from whatever source derived. Amounts received under HAP are received in connection with the performance of services. These amounts are includible in gross income as compensation for services to the extent such payments exceed the fair market value of the property relinquished in exchange for such payments. Additionally, such payments are wages for Federal Insurance Contributions Act ("FICA") tax purposes (including Medicare).

HOUSE BILL

The bill generally exempts from gross income amounts received under the HAP (as in effect on the date of enactment of this bill). Amounts received under the program also are not considered wages for FICA tax purposes (including Medicare). The excludable amount is limited to the reduction in the fair market value of property.

Effective date.—The provision is effective for payments made after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[15]

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[13] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[14] The payments are authorized under the provisions of 42 U.S.C. section 3374.

[15] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

D. Expansion of Combat Zone Filing Rules to Contingency Operations

(Sec. 204 of the House bill and sec. 7508 of the Code)

PRESENT LAW [16]

General time limits for filing tax returns

Individuals generally must file their Federal income tax returns by April 15 of the year following the close of a taxable year. The Secretary may grant reasonable extensions of time for filing such returns. Treasury regulations provide an additional automatic two-month extension (until June 15 for calendar-year individuals) for United States citizens and residents in military or naval service on duty on April 15 of the following year (the otherwise applicable due date of the return) outside the United States. No action is necessary to apply for this extension, but taxpayers must indicate on their returns (when filed) that they are claiming this extension. Unlike most extensions of time to file, this extension applies to both filing returns and paying the tax due.

Treasury regulations also provide, upon application on the proper form, an automatic four-month extension (until August 15 for calendar-year individuals) for any individual timely filing that form and paying the amount of tax estimated to be due.

In general, individuals must make quarterly estimated tax payments by April 15, June 15, September 15, and January 15 of the following taxable year. Wage withholding is considered to be a payment of estimated taxes.

Suspension of time periods

In general, the period of time for performing various acts under the Code, such as filing tax returns, paying taxes, or filing a claim for credit or refund of tax, is suspended for any individual serving in the Armed Forces of the United States in an area designated as a "combat zone" during the period of combatant activities. An individual who becomes a prisoner of war is considered to continue in active service and is therefore also eligible for these suspension of time provisions. The suspension of time also applies to an individual serving in support of such Armed Forces in the combat zone, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the Armed Forces in support of those Forces. The designation of a combat zone must be made by the President in an Executive Order. The President must also designate the period of combatant activities in the combat zone (the starting date and the termination date of combat).

The suspension of time encompasses the period of service in the combat zone during the period of combatant activities in the zone, as well as (1) any time of continuous qualified hospitalization

[16] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

resulting from injury received in the combat zone[17] or (2) time in missing in action status, plus the next 180 days.

The suspension of time applies to the following acts:

(1) Filing any return of income, estate, or gift tax (except employment and withholding taxes);

(2) Payment of any income, estate, or gift tax (except employment and withholding taxes);

(3) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(4) Allowance of a credit or refund of any tax;

(5) Filing a claim for credit or refund of any tax;

(6) Bringing suit upon any such claim for credit or refund;

(7) Assessment of any tax;

(8) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(9) Collection of the amount of any liability in respect of any tax;

(10) Bringing suit by the United States in respect of any liability in respect of any tax; and

(11) Any other act required or permitted under the internal revenue laws specified by the Secretary of the Treasury.

Individuals may, if they choose, perform any of these acts during the period of suspension. Spouses of qualifying individuals are entitled to the same suspension of time, except that the spouse is ineligible for this suspension for any taxable year beginning more than two years after the date of termination of combatant activities in the combat zone.

HOUSE BILL

The bill applies the special suspension of time period rules to persons deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation or that becomes a contingency operation. A contingency operation is defined[18] as a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force, or results in the call or order to (or retention of) active duty of members of the uniformed services during a war or a national emergency declared by the President or Congress.

Effective date.—The provision applies to any period for performing an act that has not expired before the date of enactment.

[17] Two special rules apply to continuous hospitalization inside the United States. First, the suspension of time provisions based on continuous hospitalization inside the United States are applicable only to the hospitalized individual; they are not applicable to the spouse of such individual. Second, in no event do the suspension of time provisions based on continuous hospitalization inside the United States extend beyond five years from the date the individual returns to the United States. These two special rules do not apply to continuous hospitalization outside the United States.

[18] The definition is by cross-reference to 10 U.S.C. 101.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[19]

E. Modification of Membership Requirement for Exemption From Tax for Certain Veterans' Organizations

(Sec. 205 of the House bill and sec. 501(c)(19) of the Code)

PRESENT LAW[20]

Under present law, a veterans' organization as described in section 501(c)(19) of the Code generally is exempt from taxation. The Code defines such an organization as a post or organization of past or present members of the Armed Forces of the United States: (1) that is organized in the United States or any of its possessions; (2) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and (3) that meets certain membership requirements. The membership requirements are that (1) at least 75 percent of the organization's members are past or present members of the Armed Forces of the United States, and (2) substantially all of the remaining members are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets. No more than 2.5 percent of an organization's total members may consist of individuals who are not veterans, cadets, or spouses, widows, or widowers of such individuals.

Contributions to an organization described in section 501(c)(19) may be deductible for Federal income or gift tax purposes if the organization is a post or organization of war veterans.

HOUSE BILL

The bill permits ancestors or lineal descendants of past or present members of the Armed Forces of the United States or of cadets to qualify as members for purposes of the "substantially all" test. The bill does not change the requirement that 75 percent of the organization's members must be past or present members of the Armed Forces of the United States.

Effective date.—The provision is effective for taxable years beginning after the date of enactment.

SENATE AMENDMENT

No provision.

[19] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[20] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[21]

F. Clarification of Treatment of Certain Dependent Care Assistance Programs Provided to Members of the Uniformed Services of the United States

(Sec. 206 of the House bill and sec. 134 of the Code)

PRESENT LAW[22]

Present law provides that qualified military benefits are not included in gross income. Generally, a qualified military benefit is any allowance or in-kind benefit (other than personal use of a vehicle) which: (1) is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member's status or service as a member of such uniformed services; and (2) was excludable from gross income on September 9, 1986, under any provision of law, regulation, or administrative practice which was in effect on such date. Generally, other than certain cost of living adjustments, no modification or adjustment of any qualified military benefit after September 9, 1986, is taken into account for purposes of this exclusion from gross income.

HOUSE BILL

The bill clarifies that dependent care assistance provided under a dependent care assistance program (as in effect on the date of enactment of this bill) for a member of the uniformed services by reason of such member's status or service as a member of the uniformed services is excludable from gross income as a qualified military benefit subject to the present-law rules. The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service. Amounts received under the program also are not considered wages for Federal Insurance Contributions Act tax purposes (including Medicare).

Effective date.—The provision is effective for taxable years beginning after December 31, 2002. No inference is intended as to the tax treatment of such amounts for prior taxable years.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[23]

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[21] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[22] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[23] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

G. Treatment of Service Academy Appointments as Scholarships for Purposes of Qualified Tuition Programs and Coverdell Education Savings Accounts

(Sec. 207 of the House bill and secs. 529 and 530 of the Code)

PRESENT LAW[24]

The Code provides tax-exempt status to qualified tuition programs, meaning programs established and maintained by a State or agency or instrumentality thereof or by one or more eligible educational institutions under which a person (1) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or (2) in the case of a program established by and maintained by a State or agency or instrumentality thereof, may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account. Contributions to qualified tuition programs may be made only in cash. Qualified tuition programs must have adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of amounts necessary to provide for the qualified higher education expenses of the beneficiary.

The Code provides tax-exempt status to Coverdell education savings accounts ("ESAs"), meaning certain trusts or custodial accounts which are created or organized in the United States exclusively for the purpose of paying the qualified education expenses of a designated beneficiary. Contributions to ESAs may be made only in cash. Annual contributions to ESAs may not exceed $2,000 per beneficiary (except in cases involving certain tax-free rollovers) and may not be made after the designated beneficiary reaches age 18.

Earnings on contributions to an ESA or a qualified tuition program generally are subject to tax when withdrawn. However, distributions from an ESA or qualified tuition program are excludable from the gross income of the distributee to the extent that the total distribution does not exceed the qualified education expenses incurred by the beneficiary during the year the distribution is made.

If the qualified education expenses of the beneficiary for the year are less than the total amount of the distribution from an ESA or qualified tuition program, then the qualified education expenses are deemed to be paid from a pro-rata share of both the principal and earnings components of the distribution. In such a case, only a portion of the earnings is excludable (i.e., the portion of the earnings based on the ratio that the qualified education expenses bear to the total amount of the distribution) and the remaining portion of the earnings is includible in the beneficiary's gross income.

The earnings portion of a distribution from an ESA or a qualified tuition program that is includible in income is generally subject to an additional 10-percent tax. The 10 percent additional tax does not apply if a distribution is made on account of the death or disability of the designated beneficiary, or on account of a scholar-

[24] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

ship received by the designated beneficiary (to the extent it does not exceed the amount of the scholarship).

Service obligations are required of recipients of appointments to the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy. Because of these service obligations, appointments to the Academies are not considered scholarships for purposes of the waiver of the additional 10 percent tax on withdrawals from ESAs and qualified tuition programs that are not used for qualified education purposes.

HOUSE BILL

The bill permits penalty-free withdrawals from Coverdell education savings accounts and qualified tuition programs made on account of the attendance of the beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy.

The amount of funds that can be withdrawn penalty free is limited to the costs of advanced education as defined in 10 U.S.C. section 2005(e)(3) (as in effect on the date of the enactment of the bill) at such Academies.

Effective date.—The provision applies to taxable years beginning after December 31, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[25]

H. Above-the-Line Deduction for Overnight Travel Expenses of National Guard and Reserve Members

(Sec. 208 of the House bill and sec. 162 of the Code)

PRESENT LAW[26]

National Guard and Reserve members may claim itemized deductions for their nonreimbursable expenses for transportation, meals, and lodging when they must travel away from home (and stay overnight) to attend National Guard and Reserve meetings. These overnight travel expenses are combined with other miscellaneous itemized deductions on Schedule A of the individual's income tax return and are deductible only to the extent that the aggregate of these deductions exceeds two percent of the taxpayer's adjusted gross income. No deduction is generally permitted for commuting expenses to and from drill meetings.

[25] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[26] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

HOUSE BILL

The bill provides an above-the-line deduction for the overnight transportation, meals, and lodging expenses of National Guard and Reserve members who must travel away from home more than 100 miles (and stay overnight) to attend National Guard and Reserve meetings. Accordingly, these individuals incurring these expenses can deduct them from gross income regardless of whether they itemize their deductions. The amount of the expenses that may be deducted may not exceed $1,500 per taxable year and is only available for any period during which the individual is more than 100 miles from home in connection with such services.

Effective date.—The provision is effective with respect to amounts paid or incurred in taxable years beginning after December 31, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[27]

I. Suspension of Tax-Exempt Status of Terrorist Organizations

(Sec. 301 of the House bill and sec. 501 of the Code)

PRESENT LAW[28]

Under present law, the Internal Revenue Service generally issues a letter revoking recognition of an organization's tax-exempt status only after (1) conducting an examination of the organization, (2) issuing a letter to the organization proposing revocation, and (3) allowing the organization to exhaust the administrative appeal rights that follow the issuance of the proposed revocation letter. In the case of an organization described in section 501(c)(3), the revocation letter immediately is subject to judicial review under the declaratory judgment procedures of section 7428. To sustain a revocation of tax-exempt status under section 7428, the IRS must demonstrate that the organization is no longer entitled to exemption. There is no procedure under current law for the IRS to suspend the tax-exempt status of an organization.

To combat terrorism, the Federal government has designated a number of organizations as terrorist organizations or supporters of terrorism under the Immigration and Nationality Act, the International Emergency Economic Powers Act, and the United Nations Participation Act of 1945.

[27] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[28] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

HOUSE BILL

The bill suspends the tax-exempt status of an organization that is exempt from tax under section 501(a) for any period during which the organization is designated or identified by U.S. Federal authorities as a terrorist organization or supporter of terrorism. The bill also makes such an organization ineligible to apply for tax exemption under section 501(a). The period of suspension runs from the date the organization is first designated or identified (or from the date of enactment of the bill, whichever is later) to the date when all designations or identifications with respect to the organization have been rescinded pursuant to the law or Executive order under which the designation or identification was made.

The bill describes a terrorist organization as an organization that has been designated or otherwise individually identified (1) as a terrorist organization or foreign terrorist organization under the authority of section 212(a)(3)(B)(vi)(II) or section 219 of the Immigration and Nationality Act; (2) in or pursuant to an Executive order that is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an Executive order that refers to the provision and is issued under the authority of any Federal law if the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989). During the period of suspension, no deduction for any contribution to a terrorist organization is allowed under the Code, including under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

No organization or other person may challenge, under section 7428 or any other provision of law, in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person, the suspension of tax-exemption, the ineligibility to apply for tax-exemption, a designation or identification described above, the timing of the period of suspension, or a denial of deduction described above. The suspended organization may maintain other suits or administrative actions against the agency or agencies that designated or identified the organization, for the purpose of challenging such designation or identification (but not the suspension of tax-exempt status under this provision).

If the tax-exemption of an organization is suspended and each designation and identification that has been made with respect to the organization is determined to be erroneous pursuant to the law or Executive order making the designation or identification, and such erroneous designation results in an overpayment of income tax for any taxable year with respect to such organization, a credit or refund (with interest) with respect to such overpayment shall be made. If the operation of any law or rule of law (including res judicata) prevents the credit or refund at any time, the credit or refund may nevertheless be allowed or made if the claim for such credit

or refund is filed before the close of the one-year period beginning on the date that the last remaining designation or identification with respect to the organization is determined to be erroneous.

The bill directs the IRS to update the listings of tax-exempt organizations to take account of organizations that have had their exemption suspended and to publish notice to taxpayers of the suspension of an organization's tax-exemption and the fact that contributions to such organization are not deductible during the period of suspension.

Effective date.—The provision is effective for designations made before, on, or after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[29]

J. Extension of Certain Tax Relief Provisions to Astronauts

(Sec. 401 of the House bill and secs. 101, 692, and 2201 of the Code)

PRESENT LAW[30]

In general

The Victims of Terrorism Tax Relief Act of 2001 (the "Victims Act") provided certain income and estate tax relief to individuals who die from wounds or injury incurred as a result of the terrorist attacks against the United States on September 11, 2001, and April 19, 1995 (the bombing of the Alfred P. Murrah Federal Building in Oklahoma City) or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002.

Income tax relief

The Victims Act extended relief similar to the present-law treatment of military or civilian employees of the United States who die as a result of terrorist or military activity outside the United States to individuals who die as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, and individuals who die as a result of illness incurred due to an attack involving anthrax that occurs on or after September 11, 2001, and before January 1, 2002. Under the Victims Act, such individuals generally are exempt from income tax for the year of death and for prior taxable years beginning with the taxable year prior to the taxable year in which the wounds or injury occurred.[31] The exemption applies to these individuals whether killed in an attack (e.g., in the case

[29] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

[30] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was prior to the enactment of Pub. L. No. 108–121.

[31] Present law does not provide relief from self-employment tax liability.

of the September 11, 2001, attack in one of the four airplanes or on the ground) or in rescue or recovery operations.

Present law provides tax relief of at least $10,000 to each eligible individual regardless of the income tax liability of the individual for the eligible tax years. If an eligible individual's income tax for years eligible for the exclusion under the provision is less than $10,000, the individual is treated as having made a tax payment for such individual's last taxable year in an amount equal to the excess of $10,000 over the amount of tax not imposed under the provision.

Subject to rules prescribed by the Secretary, the exemption from tax does not apply to the tax attributable to (1) deferred compensation which would have been payable after death if the individual had died other than as a specified terrorist victim, or (2) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after September 11, 2001. Thus, for example, the exemption does not apply to amounts payable from a qualified plan or individual retirement arrangement to the beneficiary or estate of the individual. Similarly, amounts payable only as death or survivor's benefits pursuant to deferred compensation preexisting arrangements that would have been paid if the death had occurred for another reason are not covered by the exemption. In addition, if the individual's employer makes adjustments to a plan or arrangement to accelerate the vesting of restricted property or the payment of nonqualified deferred compensation after the date of the particular attack, the exemption does not apply to income received as a result of that action.[32] Also, if the individual's beneficiary cashed in savings bonds of the decedent, the exemption does not apply. On the other hand, the exemption does apply, for example, to a final paycheck of the individual or dividends on stock held by the individual when paid to another person or the individual's estate after the date of death but before the end of the taxable year of the decedent (determined without regard to the death). The exemption also applies to payments of an individual's accrued vacation and accrued sick leave.

The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

Exclusion of death benefits

The Victims Act generally provides an exclusion from gross income for amounts received if such amounts are paid by an employer (whether in a single sum or otherwise[33]) by reason of the death of an employee who dies as a result of wounds or injury which were incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002. Subject to rules prescribed by the Secretary, the exclusion does not apply to amounts that would have been payable if the individual

[32] Such amounts may, however, be excludable from gross income under the death benefit exclusion provided in section 102 of the Victims Act.

[33] Thus, for example, payments made over a period of years could qualify for the exclusion.

had died for a reason other than the attack. The exclusion does apply, however, to death benefits provided under a qualified plan that satisfy the incidental benefit rule.

For purposes of the exclusion, self-employed individuals are treated as employees. Thus, for example, payments by a partnership to the surviving spouse of a partner who died as a result of the September 11, 2001, attacks may be excludable under the provision.

The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

Estate tax relief

Present law provides a reduction in Federal estate tax for taxable estates of U.S. citizens or residents who are active members of the U.S. Armed Forces and who are killed in action while serving in a combat zone (sec. 2201). This provision also applies to active service members who die as a result of wounds, disease, or injury suffered while serving in a combat zone by reason of a hazard to which the service member was subjected as an incident of such service.

In general, the effect of section 2201 is to replace the Federal estate tax that would otherwise be imposed with a Federal estate tax equal to 125 percent of the maximum State death tax credit determined under section 2011(b). Credits against the tax, including the unified credit of section 2010 and the State death tax credit of section 2011, then apply to reduce (or eliminate) the amount of the estate tax payable.

Generally, the reduction in Federal estate taxes under section 2201 is equal in amount to the "additional estate tax." The additional estate tax is the difference between the Federal estate tax imposed by section 2001 and 125 percent of the maximum State death tax credit determined under section 2011(b) as in effect prior to its repeal by EGTRRA.

The Victims Act generally treats individuals who die from wounds or injury incurred as a result of the terrorist attacks that occurred on September 11, 2001, or April 19, 1995, or as a result of illness incurred due to an attack involving anthrax that occurred on or after September 11, 2001, and before January 1, 2002, in the same manner as if they were active members of the U.S. Armed Forces killed in action while serving in a combat zone or dying as a result of wounds or injury suffered while serving in a combat zone for purposes of section 2201. Consequently, the estates of these individuals are eligible for the reduction in Federal estate tax provided by section 2201. The tax relief does not apply to any individual identified by the Attorney General to have been a participant or conspirator in any terrorist attack to which the provision applies, or a representative of such individual.

The Victims Act also changed the general operation of section 2201, as it applies to both the estates of service members who qualify for special estate tax treatment under present and prior law and to the estates of individuals who qualify for the special treatment only under the Act. Under the Victims Act, the Federal estate

tax is determined in the same manner for all estates that are eligible for Federal estate tax reduction under section 2201. In addition, the executor of an estate that is eligible for special estate tax treatment under section 2201 may elect not to have section 2201 apply to the estate. Thus, in the event that an estate may receive more favorable treatment without the application of section 2201 in the year of death than it would under section 2201, the executor may elect not to apply the provisions of section 2201, and the estate tax owed (if any) would be determined pursuant to the generally applicable rules.

Under the Victims Act, section 2201 no longer reduces Federal estate tax by the amount of the additional estate tax. Instead, the Victims Act provides that the Federal estate tax liability of eligible estates is determined under section 2001 (or section 2101, in the case of decedents who were neither residents nor citizens of the United States), using a rate schedule that is equal to 125 percent of the pre-EGTRRA maximum State death tax credit amount. This rate schedule is used to compute the tax under section 2001(b) or section 2101(b) (i.e., both the tentative tax under section 2001(b)(1) and section 2101(b), and the hypothetical gift tax under section 2001(b)(2) are computed using this rate schedule). As a result of this provision, the estate tax is unified with the gift tax for purposes of section 2201 so that a single graduated (but reduced) rate schedule applies to transfers made by the individual at death, based upon the cumulative taxable transfers made both during lifetime and at death.

In addition, while the Victims Act provides an alternative reduced rate table for purposes of determining the tax under section 2001(b) or section 2101(b), the amount of the unified credit nevertheless is determined as if section 2201 did not apply, based upon the unified credit as in effect on the date of death. For example, in the case of victims of the September 11, 2001, terrorist attack, the applicable unified credit amount under section 2010(c) would be determined by reference to the actual section 2001(c) rate table.

HOUSE BILL

The bill extends the exclusion from income tax, the exclusion for death benefits, and the estate tax relief available under the Victims of Terrorism Tax Relief Act of 2001 to astronauts who lose their lives on a space mission (including the individuals who lost their lives in the space shuttle Columbia disaster).

Effective date.—The provision is generally effective for qualified individuals whose lives are lost on a space mission after December 31, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.[34]

[34] All of the House bill provisions relating to the military have been enacted prior to this conference agreement in separate legislation (Pub. L. No. 108–121).

III. OTHER PROVISIONS

A. Establish Uniform Definition of a Qualifying Child

(Secs. 201–208 of the conference agreement, and secs. 2, 21, 24, 32, 151, and 152 of the Code)

PRESENT LAW

In general

Present law contains five commonly used provisions that provide benefits to taxpayers with children: (1) the dependency exemption; (2) the child credit; (3) the earned income credit; (4) the dependent care credit; and (5) head of household filing status. Each provision has separate criteria for determining whether the taxpayer qualifies for the applicable tax benefit with respect to a particular child. The separate criteria include factors such as the relationship (if any) the child must bear to the taxpayer, the age of the child, and whether the child must live with the taxpayer. Thus, with respect to the same individual, a taxpayer is required to determine eligibility for each benefit separately, and an individual who qualifies a taxpayer for one provision does not automatically qualify the taxpayer for another provision.

Dependency exemption [35]

In general

Taxpayers are entitled to a personal exemption deduction for the taxpayer, his or her spouse, and each dependent. For 2004, the amount deductible for each personal exemption is $3,100. The deduction for personal exemptions is phased out for taxpayers with incomes above certain thresholds.[36]

In general, a taxpayer is entitled to a dependency exemption for an individual if the individual: (1) satisfies a relationship test or is a member of the taxpayer's household for the entire taxable year; (2) satisfies a support test; (3) satisfies a gross income test or is a child of the taxpayer under a certain age; (4) is a citizen or resident of the U.S. or resident of Canada or Mexico;[37] and (5) did not file a joint return with his or her spouse for the year.[38] In addition, the taxpayer identification number of the individual must be included on the taxpayer's return.

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[35] Secs. 151 and 152. Under the statutory structure, section 151 provides for the deduction for personal exemptions with respect to "dependents." The term "dependent" is defined in section 152. Most of the requirements regarding dependents are contained in section 152; section 151 contains additional requirements that must be satisfied in order to obtain a dependency exemption with respect to a dependent (as so defined). In particular, section 151 contains the gross income test, the rules relating to married dependents filing a joint return, and the requirement for a taxpayer identification number. The other rules discussed here are contained in section 151.

[36] Sec. 151(d)(3).

[37] A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a dependent (provided other applicable requirements are met) if (1) the child's principal place of abode is the taxpayer's home and (2) the taxpayer is a citizen or national of the United States. Sec. 152(b)(3).

[38] This restriction does not apply if the return was filed solely to obtain a refund and no tax liability would exist for either spouse if they filed separate returns. Rev. Rul. 54–567, 1954–2 C.B. 108.

Relationship or member of household test

Relationship test.—The relationship test is satisfied if an individual is the taxpayer's (1) son or daughter or a descendant of either (e.g., grandchild or great-grandchild); (2) stepson or stepdaughter; (3) brother or sister (including half brother, half sister, stepbrother, or stepsister); (4) parent, grandparent, or other direct ancestor (but not foster parent); (5) stepfather or stepmother; (6) brother or sister of the taxpayer's father or mother; (7) son or daughter of the taxpayer's brother or sister; or (8) the taxpayer's father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

An adopted child (or a child who is a member of the taxpayer's household and who has been placed with the taxpayer for adoption) is treated as a child of the taxpayer. A foster child is treated as a child of the taxpayer if the foster child is a member of the taxpayer's household for the entire taxable year.

Member of household test.—If the relationship test is not satisfied, then the individual may be considered the dependent of the taxpayer if the individual is a member of the taxpayer's household for the entire year. Thus, a taxpayer may be eligible to claim a dependency exemption with respect to an unrelated child who lives with the taxpayer for the entire year.

For the member of household test to be satisfied, the taxpayer must both maintain the household and occupy the household with the individual.[39] A taxpayer or other individual does not fail to be considered a member of a household because of "temporary" absences due to special circumstances, including absences due to illness, education, business, vacation, and military service.[40] Similarly, an individual does not fail to be considered a member of the taxpayer's household due to a custody agreement under which the individual is absent for less than six months.[41] Indefinite absences that last for more than the taxable year may be considered "temporary." For example, the IRS has ruled that an elderly woman who was indefinitely confined to a nursing home was temporarily absent from a taxpayer's household. Under the facts of the ruling, the woman had been an occupant of the household before being confined to a nursing home, the confinement had extended for several years, and it was possible that the woman would die before becoming well enough to return to the taxpayer's household. There was no intent on the part of the taxpayer or the woman to change her principal place of abode.[42]

Support test

In general.—The support test is satisfied if the taxpayer provides over one half of the support of the individual for the taxable year. To determine whether a taxpayer has provided more than one half of an individual's support, the amount the taxpayer contributed to the individual's support is compared with the entire amount of support the individual received from all sources, includ-

[39] Treas. Reg. sec. 1.152–1(b).
[40] Id.
[41] Id.
[42] Rev. Rul. 66–28, 1966–1 C.B. 31.

ing the individual's own funds.[43] Governmental payments and subsidies (e.g., Temporary Assistance to Needy Families, food stamps, and housing) generally are treated as support provided by a third party. Expenses that are not directly related to any one member of a household, such as the cost of food for the household, must be divided among the members of the household. If any person furnishes support in kind (e.g., in the form of housing), then the fair market value of that support must be determined.

Multiple support agreements.—In some cases, no one taxpayer provides more than one half of the support of an individual. Instead, two or more taxpayers, each of whom would be able to claim a dependency exemption but for the support test, together provide more than one half of the individual's support. If this occurs, the taxpayers may agree to designate that one of the taxpayers who individually provides more than 10 percent of the individual's support can claim a dependency exemption for the child. Each of the others must sign a written statement agreeing not to claim the exemption for that year. The statements must be filed with the income tax return of the taxpayer who claims the exemption.

Special rules for divorced or legally separated parents.—Special rules apply in the case of a child of divorced or legally separated parents (or parents who live apart at all times during the last six months of the year) who provide over one half the child's support during the calendar year.[44] If such a child is in the custody of one or both of the parents for more than one half of the year, then the parent having custody for the greater portion of the year is deemed to satisfy the support test; however, the custodial parent may release the dependency exemption to the noncustodial parent by filing a written declaration with the IRS.[45]

Gross income test

In general, an individual may not be claimed as a dependent of a taxpayer if the individual has gross income that is at least equal to the personal exemption amount for the taxable year.[46] If the individual is the child of the taxpayer and under age 19 (or under age 24, if a full-time student), the gross income test does not apply.[47] For purposes of this rule, a "child" means a son, daughter, stepson, or stepdaughter (including an adopted child of the taxpayer, a foster child who resides with the taxpayer for the entire year, or a child placed with the taxpayer for adoption by an authorized adoption agency).

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[43] In the case of a son, daughter, stepson, or stepdaughter of the taxpayer who is a full-time student, scholarships are not taken into account for purpose of the support test. Sec. 152(d).

[44] For purposes of this rule, a "child" means a son, daughter, stepson, or stepdaughter (including an adopted child or foster child, or child placed with the taxpayer for adoption). Sec. 152(e)(1)(A).

[45] Special support rules also apply in the case of certain pre-1985 agreements between divorced or legally separated parents. Sec. 152(e)(4).

[46] Certain income from sheltered workshops is not taken into account in determining the gross income of permanently and totally disabled individuals. Sec. 151(c)(5).

[47] Sec. 151(c). The IRS has issued guidance stating that for purposes of the dependency exemption, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

Earned income credit [48]

In general

In general, the earned income credit is a refundable credit for low-income workers. The amount of the credit depends on the earned income of the taxpayer and whether the taxpayer has one, more than one, or no "qualifying children." In order to be a qualifying child for the earned income credit, an individual must satisfy a relationship test, a residency test, and an age test. In addition, the name, age, and taxpayer identification number of the qualifying child must be included on the return.

Relationship test

An individual satisfies the relationship test under the earned income credit if the individual is the taxpayer's: (1) son, daughter, stepson, or stepdaughter, or a descendant of any such individual; [49] (2) brother, sister, stepbrother, or stepsister, or a descendant of any such individual, who the taxpayer cares for as the taxpayer's own child; or (3) eligible foster child.

An eligible foster child is an individual (1) who is placed with the taxpayer by an authorized placement agency, and (2) who the taxpayer cares for as her or his own child. A married child of the taxpayer is not treated as meeting the relationship test unless the taxpayer is entitled to a dependency exemption with respect to the married child (e.g., the support test is satisfied) or would be entitled to the exemption if the taxpayer had not waived the exemption to the noncustodial parent.[50]

Residency test

The residency test is satisfied if the individual has the same principal place of abode as the taxpayer for more than one half of the taxable year. The residence must be in the United States.[51] As under the dependency exemption (and head of household filing status), temporary absences due to special circumstances, including absences due to illness, education, business, vacation, and military service are not treated as absences for purposes of determining whether the residency test is satisfied.[52] Under the earned income credit, there is no requirement that the taxpayer maintain the household in which the taxpayer and the qualifying individual reside.

Age test

In general, the age test is satisfied if the individual has not attained age 19 as of the close of the calendar year.[53] In the case of

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[48] Sec. 32.

[49] A child who is legally adopted or placed with the taxpayer for adoption by an authorized adoption agency is treated as the taxpayer's own child. Sec. 32(c)(3)(B)(iv).

[50] Sec. 32(c)(3)(B)(ii).

[51] The principal place of abode of a member of the Armed Services is treated as in the United States during any period during which the individual is stationed outside the United States on active duty. Sec. 32(c)(4).

[52] IRS Publication 596, *Earned Income Credit (EIC),* at 14. H. Rep. 101–964 (October 27, 1990), at 1037.

[53] The IRS has issued guidance stating that for purposes of the earned income credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

a full-time student, the age test is satisfied if the individual has not attained age 24 as of the close of the calendar year. In the case of an individual who is permanently and totally disabled, no age limit applies.

Child credit [54]

Taxpayers with incomes below certain amounts are eligible for a child credit for each qualifying child of the taxpayer. The amount of the child credit is up to $1,000, in the case of taxable years beginning in 2003 or 2004. The child credit reverts to $700 for taxable years beginning in 2005 through 2008, $800 for taxable years beginning in 2009, and $1,000 for taxable years beginning in 2010. The credit declines to $500 in taxable year 2011.[55] For purposes of this credit, a qualifying child is an individual: (1) with respect to whom the taxpayer is entitled to a dependency exemption for the year; (2) who satisfies the same relationship test applicable to the earned income credit; and (3) who has not attained age 17 as of the close of the calendar year.[56] In addition, the child must be a citizen or resident of the United States.[57] A portion of the child credit is refundable under certain circumstances.[58]

Dependent care credit [59]

The dependent care credit may be claimed by a taxpayer who maintains a household that includes one or more qualifying individuals and who has employment-related expenses. A qualifying individual means (1) a dependent of the taxpayer under age 13 for whom the taxpayer is entitled to a dependency exemption,[60] (2) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself,[61] or (3) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself. In addition, a taxpayer identification number for the qualifying individual must be included on the return.

A taxpayer is considered to maintain a household for a period if over one half the cost of maintaining the household for the period is furnished by the taxpayer (or, if married, the taxpayer and his or her spouse). Costs of maintaining the household include ex-

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[54] Sec. 24.

[55] EGTRRA, Pub. L. No. 107–16, sec. 901(a) (2001).

[56] The IRS has issued guidance stating that for purposes of the child credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[57] The child credit does not apply with respect to a child who is a resident of Canada or Mexico and is not a U.S. citizen, even if a dependency exemption is available with respect to the child. Sec. 24(c)(2). The child credit is, however, available with respect to a child dependent who is not a resident or citizen of the United States if: (1) the child has been legally adopted by the taxpayer; (2) the child's principal place of abode is the taxpayer's home; and (3) the taxpayer is a U.S. citizen or national. *See* sec. 24(c)(2) and sec. 152(b)(3).

[58] Sec. 24(d).

[59] Sec. 21.

[60] The IRS has issued guidance stating that for purposes of the dependent care credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[61] Although such an individual must be a dependent of the taxpayer as defined in section 152, it is not required that the taxpayer be entitled to a dependency exemption with respect to the individual under section 151. Thus, such an individual may be a qualifying individual for purposes of the dependent care credit, even though the taxpayer is not entitled to a dependency exemption because the individual does not meet the gross income test.

[62] Sec. 21(e)(5).

penses such as rent, mortgage interest (but not principal), real estate taxes, insurance on the home, repairs (but not home improvements), utilities, and food eaten in the home.

A special rule applies in the case of a child who is under age 13 or is physically or mentally incapable of caring for himself or herself if the custodial parent has waived his or her dependency exemption to the noncustodial parent.[62] For the dependent care credit, the child is treated as a qualifying individual with respect to the custodial parent, not the parent entitled to claim the dependency exemption.

Head of household filing status [63]

A taxpayer may claim head of household filing status if the taxpayer is unmarried (and not a surviving spouse) and pays more than one half of the cost of maintaining as his or her home a household which is the principal place of abode for more than one half of the year of (1) an unmarried son, daughter, stepson or stepdaughter of the taxpayer or an unmarried descendant of the taxpayer's son or daughter, (2) an individual described in (1) who is married, if the taxpayer may claim a dependency exemption with respect to the individual (or could claim the exemption if the taxpayer had not waived the exemption to the noncustodial parent), or (3) a relative with respect to whom the taxpayer may claim a dependency exemption.[64] If certain other requirements are satisfied, head of household filing status also may be claimed if the taxpayer is entitled to a dependency exemption with respect to one of the taxpayer's parents.

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

In general

The Senate amendment establishes a uniform definition of qualifying child for purposes of the dependency exemption, the child credit, the earned income credit, the dependent care credit, and head of household filing status. A taxpayer generally may claim an individual who does not meet the uniform definition of qualifying child (with respect to any taxpayer) as a dependent if the present-law dependency requirements are satisfied. The Senate amendment generally does not modify other parameters of each tax benefit (e.g., the earned income requirements of the earned income

[60] The IRS has issued guidance stating that for purposes of the dependent care credit, an individual attains a specified age on the anniversary of the date that the child was born (e.g., a child born on January 1, 1987, attains the age of 17 on January 1, 2004). Rev. Rul. 2003–72, 2003–33 I.R.B. 346.

[61] Although such an individual must be a dependent of the taxpayer as defined in section 152, it is not required that the taxpayer be entitled to a dependency exemption with respect to the individual under section 151. Thus, such an individual may be a qualifying individual for purposes of the dependent care credit, even though the taxpayer is not entitled to a dependency exemption because the individual does not meet the gross income test.

[62] Sec. 21(e)(5).

[63] Sec. 2(b).

credit) or the rules for determining whether individuals other than children of the taxpayer qualify for each tax benefit.

Under the uniform definition, in general, a child is a qualifying child of a taxpayer if the child satisfies each of three tests: (1) the child has the same principal place of abode as the taxpayer for more than one half the taxable year; (2) the child has a specified relationship to the taxpayer; and (3) the child has not yet attained a specified age. A tie-breaking rule applies if more than one taxpayer claims a child as a qualifying child.

Under the Senate amendment, the present-law support and gross income tests for determining whether an individual is a dependent generally do not apply to a child who meets the requirements of the uniform definition of qualifying child.

Residency test

Under the uniform definition's residency test, a child must have the same principal place of abode as the taxpayer for more than one half of the taxable year. It is intended that, as is the case under present law, temporary absences due to special circumstances, including absences due to illness, education, business, vacation, or military service, are not treated as absences.

Relationship test

In order to be a qualifying child under the Senate amendment, the child must be the taxpayer's son, daughter, stepson, stepdaughter, brother, sister, stepbrother, stepsister, or a descendant of any such individual. An individual legally adopted by the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, is treated as a child of such taxpayer by blood. A foster child who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction is treated as the taxpayer's child.[65]

Age test

Under the Senate amendment, the age test varies depending upon the tax benefit involved. In general, a child must be under age 19 (or under age 24 in the case of a full-time student) in order to be a qualifying child.[66] In general, no age limit applies with respect to individuals who are totally and permanently disabled within the meaning of section 22(e)(3) at any time during the calendar year. The Senate amendment retains the present-law requirements that a child must be under age 13 (if he or she is not disabled) for purposes of the dependent care credit, and under age 17 (whether or not disabled) for purposes of the child credit.

Children who support themselves

Under the Senate amendment, a child who provides over one half of his or her own support generally is not considered a quali-

[64] Sec. 2(b)(1)(A)(ii), as qualified by sec. 2(b)(3)(B). An individual for whom the taxpayer is entitled to claim a dependency exemption by reason of a multiple support agreement does not qualify the taxpayer for head of household filing status.

[65] The provision eliminates the present-law rule requiring that if a child is the taxpayer's sibling or stepsibling or a descendant of any such individual, the taxpayer must care for the child

fying child of another taxpayer. The Senate amendment retains the present-law rule, however, that a child who provides over one half of his or her own support may constitute a qualifying child of another taxpayer for purposes of the earned income credit.

Tie-breaking rules

If a child would be a qualifying child with respect to more than one individual (e.g., a child lives with his or her mother and grandmother in the same residence) and more than one person claims a benefit with respect to that child, then the following "tie-breaking" rules apply. First, if only one of the individuals claiming the child as a qualifying child is the child's parent, the child is deemed the qualifying child of the parent. Second, if both parents claim the child and the parents do not file a joint return, then the child is deemed a qualifying child first with respect to the parent with whom the child resides for the longest period of time, and second with respect to the parent with the highest adjusted gross income. Third, if the child's parents do not claim the child, then the child is deemed a qualifying child with respect to the claimant with the highest adjusted gross income.

Interaction with present-law rules

Taxpayers generally may claim an individual who does not meet the uniform definition of qualifying child with respect to any taxpayer as a dependent if the present-law dependency requirements (including the gross income and support tests) are satisfied.[67] Thus, for example, as under present law, a taxpayer may claim a parent as a dependent if the taxpayer provides more than one half of the support of the parent and the parent's gross income is less than the exemption amount. As another example, under the Senate amendment a grandparent may claim a dependency exemption with respect to a grandson who does not reside with any taxpayer for over one half the year, if the grandparent provides more than one half of the support of the grandson and the grandson's gross income is less than the exemption amount.

Citizenship and residency

Children who are U.S. citizens living abroad or non-U.S. citizens living in Canada or Mexico may qualify as a qualifying child, as is the case under the present-law dependency tests. A legally adopted child who does not satisfy the residency or citizenship requirement may nevertheless qualify as a qualifying child (provided other applicable requirements are met) if (1) the child's principal place of abode is the taxpayer's home and (2) the taxpayer is a citizen or national of the United States.

Children of divorced or legally separated parents

The Senate amendment retains the present-law rule that allows a custodial parent to release the claim to a dependency exemption (and, therefore, the child credit) to a noncustodial parent. Thus, under the Senate amendment, custodial waivers that are in

[67] Individuals who satisfy the present-law dependency tests and who are not qualifying children are referred to as "qualifying relatives" under the provision.

place and effective on the date of enactment will continue to be effective after the date of enactment if they continue to satisfy the waiver rule. In addition, the Senate amendment retains the custodial waiver rule for purposes of the dependency exemption (and, therefore, the child credit) for decrees of divorce or separate maintenance or written separation agreements that become effective after the date of enactment. Under the Senate amendment, as under present law, the custodial waiver rules do not affect eligibility with respect to children of divorced or legally separated parents for purposes of the earned income credit, the dependent care credit, and head of household filing status.

While retaining the substantive effect of the present-law waiver provisions, the Senate amendment modifies the mechanical structure of the rules. Under present law, a waiver may be made with respect to the dependency exemption. The waiver then automatically carries over to the child credit, because in order to claim the child credit, the taxpayer must be allowed the dependency exemption with respect to the child. Thus, if the dependency exemption is waived, the child credit applies to the taxpayer who is allowed the dependency exemption under the waiver.

The Senate amendment obtains the same result, but through a slightly modified statutory structure. Under the Senate amendment, if a waiver is made, the waiver applies for purposes of determining whether a child meets the definition of a qualifying child or a qualifying relative under section 152(c) or 152(d) as amended by the provision. While the definition of qualifying child is generally uniform, for purposes of the earned income credit, head of household status, and the dependent care credit, the definition of qualifying child is made without regard to the waiver provision.[68] Thus, as under present law, a waiver that applies for the dependency exemption will also apply for the child credit, and the waiver will not apply for purposes of the other provisions.

Other provisions

The Senate amendment retains the applicable present-law requirements that a taxpayer identification number for a child be provided on the taxpayer's return. For purposes of the earned income credit, a qualifying child is required to have a social security number that is valid for employment in the United States (that is, the child must be a U.S. citizen, permanent resident, or have a certain type of temporary visa).

Effect of Senate amendment on particular tax benefits

Dependency exemption

For purposes of the dependency exemption, the Senate amendment defines a dependent as a qualifying child or a qualifying relative. The qualifying child test eliminates the support test (other than in the case of a child who provides more than one half of his or her own support), and replaces it with the residency requirement described above. Further, the present-law gross income test does not apply to a qualifying child. The rules relating to multiple support agreements do not apply with respect to qualifying chil-

[68] See secs. 2(b)(1)(A)(i) and 32(c)(3)(A) as amended by the provision, and sec. 21(e)(5).

dren because the support test does not apply to them. Special tie-breaking rules (described above) apply if more than one taxpayer claims a qualifying child under the Senate amendment. These tie-breaking rules do not apply if a child constitutes a qualifying child with respect to multiple taxpayers, but only one eligible taxpayer actually claims the qualifying child.

The Senate amendment generally permits taxpayers to continue to apply the present-law dependency exemption rules to claim a dependency exemption for a qualifying relative who does not satisfy the qualifying child definition. In such cases, the present-law gross income and support tests, including the special rules for multiple support agreements, the special rules relating to income of handicapped dependents, and the special support test in case of students, continue to apply for purposes of the dependency exemption.

As is the case under present law, a child who provides over half of his or her own support is not considered a dependent of another taxpayer under the Senate amendment. Further, an individual shall not be treated as a dependent of any taxpayer if such individual has filed a joint return with the individual's spouse for the taxable year.

Earned income credit

In general, the Senate amendment adopts a definition of qualifying child that is similar to the present-law definition under the earned income credit. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The present-law tie-breaker rule applicable to the earned income credit is used for purposes of the uniform definition of qualifying child. The Senate amendment retains the present-law requirement that the taxpayer's principal place of abode must be in the United States.

Child credit

The present-law child credit generally uses the same relationships to define an eligible child as the uniform definition. The present-law requirement that a foster child and certain other children be cared for as the taxpayer's own child is eliminated. The age limitation under the Senate amendment retains the present-law requirement that the child must be under age 17, regardless of whether the child is disabled.

Dependent care credit

The present-law requirement that a taxpayer maintain a household in order to claim the dependent care credit is eliminated. Thus, if other applicable requirements are satisfied, a taxpayer may claim the dependent care credit with respect to a child who lives with the taxpayer for more than one half the year, even if the taxpayer does not provide more than one half of the cost of maintaining the household.

The rules for determining eligibility for the credit with respect to an individual who is physically or mentally incapable of caring for himself or herself are amended to include a requirement that

the taxpayer and the dependent have the same principal place of abode for more than one half the taxable year.

Head of household filing status

Under the Senate amendment, a taxpayer is eligible for head of household filing status only with respect to a qualifying child or an individual for whom the taxpayer is entitled to a dependency exemption. Under the Senate amendment, a taxpayer may claim head of household filing status if the taxpayer is unmarried (and not a surviving spouse) and pays more than one half of the cost of maintaining as his or her home a household which is the principal place of abode for more than one half the year of (1) a qualifying child, or (2) an individual for whom the taxpayer may claim a dependency exemption. As under present law, a taxpayer may claim head of household status with respect to a parent for whom the taxpayer may claim a dependency exemption and who does not live with the taxpayer, if certain requirements are satisfied.

Effective date.—The provision is effective for taxable years beginning after December 31, 2003.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision with the following modifications. The conference agreement modifies the definition of adopted child, for purposes of determining whether an adopted child is treated as a child by blood, to mean an individual who is legally adopted by the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer.

Effective date.—The provision is effective for taxable years beginning after December 31, 2004.

IV. REVENUE PROVISIONS

A. Extension of Customs User Fees

(Sec. 301 of the Senate amendment)

PRESENT LAW

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Pub. L. No. 99–272), authorized the Secretary of the Treasury to collect certain service fees. Section 412 (Pub. L. No. 107–296) of the Homeland Security Act of 2002 authorized the Secretary of the Treasury to delegate such authority to the Secretary of Homeland Security. Provided for under 19 U.S.C. 58c, these fees include: processing fees for air and sea passengers, commercial trucks, rail cars, private aircraft and vessels, commercial vessels, dutiable mail packages, barges and bulk carriers, merchandise, and Customs broker permits. COBRA was amended on several occasions but most recently by Pub. L. No. 108–121, which extended authorization for the collection of these fees through March 1, 2005.[69]

[69] Sec. 201; 117 Stat. 1335.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985 through March 31, 2010.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

V. OTHER PROVISIONS

A. Extension of the Research Credit

(Sec. 301 of the conference agreement and sec. 41 of the Code)

PRESENT LAW

Section 41 provided a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceeded its base amount for that year. Taxpayers were permitted to elect an alternative incremental research credit regime in which the taxpayer was assigned a three-tiered fixed-base percentage and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 2.65 percent applied to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of one percent but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applied to the extent that a taxpayer's current-year research expenses exceeded a base amount computed by using a fixed-base percentage of 1.5 percent but did not exceed a base amount computed by using a fixed-base percentage of two percent. A credit rate of 3.75 percent applied to the extent that a taxpayer's current-year research expenses exceeded a base amount computed by using a fixed-base percentage of two percent.

A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenses (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.

The research tax credit expired and generally does not apply to amounts paid or incurred after June 30, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the present-law research credit to qualified amounts paid or incurred before January 1, 2006.

Effective date.—Effective for amounts paid or incurred after June 30, 2004.

B. Extension of Parity in the Application of Certain Limits to Mental Health Benefits

(Sec. 302 of the conference agreement, sec. 9812 of the Code, sec. 712 of ERISA, and section 2705 of the PHSA)

PRESENT LAW

The Mental Health Parity Act of 1996 amended the Employee Retirement Income Security Act of 1974 ("ERISA") and the Public Health Service Act ("PHSA") to provide that group health plans that provide both medical and surgical benefits and mental health benefits cannot impose aggregate lifetime or annual dollar limits on mental health benefits that are not imposed on substantially all medical and surgical benefits. The provisions of the Mental Health Parity Act were initially effective with respect to plan years beginning on or after January 1, 1998, for a temporary period. Since enactment, the mental health parity requirements in ERISA and the PHSA have been extended on more than one occasion and currently are scheduled to expire with respect to benefits for services furnished on or after December 31, 2004.

The Taxpayer Relief Act of 1997 added to the Code the requirements imposed under the Mental Health Parity Act, and imposed an excise tax on group health plans that fail to meet the requirements. The excise tax is equal to $100 per day during the period of noncompliance and is generally imposed on the employer sponsoring the plan if the plan fails to meet the requirements. The maximum tax that can be imposed during a taxable year cannot exceed the lesser of 10 percent of the employer's group health plan expenses for the prior year or $500,000. No tax is imposed if the Secretary determines that the employer did not know, and exercising reasonable diligence would not have known, that the failure existed.

The Code provisions were initially effective with respect to plan years beginning on or after January 1, 1998, for a temporary period.[70] The Code provisions have been extended on a number of occasions, and expired with respect to benefits for services furnished after December 31, 2003.

HOUSE BILL

No provision.

[70] The excise tax does not apply to benefits for services furnished on or after September 30, 2001, and before January 10, 2002.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the ERISA and PHSA provisions relating to mental health parity to benefits for services furnished before January 1, 2006. The conference agreement also extends the Code provisions relating to mental health parity to benefits for services furnished on or after the date of enactment and before January 1, 2006. Thus, the excise tax on failures to meet the requirements imposed by the Code provisions does not apply after December 31, 2003, and before the date of enactment.

Effective date.—The provision is effective on the date of enactment.

C. Extension of the Work Opportunity Tax Credit

(Sec. 303 of the conference agreement and sec. 51 of the Code)

PRESENT LAW

Work opportunity tax credit

Targeted groups eligible for the credit

The work opportunity tax credit is available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The eight targeted groups are: (1) certain families eligible to receive benefits under the Temporary Assistance for Needy Families Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income (SSI) benefits.

A qualified ex-felon is an individual certified as: (1) having been convicted of a felony under State or Federal law; (2) being a member of an economically disadvantaged family; and (3) having a hiring date within one year of release from prison or conviction.

Qualified wages

Generally, qualified wages are defined as cash wages paid by the employer to a member of a targeted group. The employer's deduction for wages is reduced by the amount of the credit.

Calculation of the credit

The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified first-year wages. Generally, qualified first-year wages are qualified wages (not in excess of $6,000) attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. Therefore, the maximum credit per employee is $2,400 (40 percent of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40 percent of the first $3,000 of qualified first-year wages).

Minimum employment period

No credit is allowed for qualified wages paid to employees who work less than 120 hours in the first year of employment.

Coordination of the work opportunity tax credit and the welfare-to-work tax credit

An employer cannot claim the work opportunity tax credit with respect to wages of any employee on which the employer claims the welfare-to-work tax credit.

Other rules

The work opportunity tax credit is not allowed for wages paid to a relative or dependent of the taxpayer. Similarly wages paid to replacement workers during a strike or lockout are not eligible for the work opportunity tax credit. Wages paid to any employee during any period for which the employer received on-the-job training program payments with respect to that employee are not eligible for the work opportunity tax credit. The work opportunity tax credit generally is not allowed for wages paid to individuals who had previously been employed by the employer. In addition, many other technical rules apply.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the work opportunity tax credit for two years (through December 31, 2005).

Effective date.—The extension of the work opportunity tax credit is effective for wages paid or incurred for individuals beginning work after December 31, 2003.

D. Extension of the Welfare-to-Work Tax Credit

(Sec. 303 of the conference agreement and sec. 51A of the Code)

PRESENT LAW

Welfare-to-work tax credit

Targeted group eligible for the credit

The welfare-to-work tax credit is available on an elective basis to employers of qualified long-term family assistance recipients. Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received such family assistance for a total of at least 18 months (whether or not consecutive) after August 5, 1997 (the date of enactment of the welfare-to-work tax credit) if they are hired within 2 years after the date that the 18–month total is reached; and (3) members of a family who are no longer eligible for family assist-

ance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

Qualified wages

Qualified wages for purposes of the welfare-to-work tax credit are defined more broadly than the work opportunity tax credit. Unlike the definition of wages for the work opportunity tax credit which includes simply cash wages, the definition of wages for the welfare-to-work tax credit includes cash wages paid to an employee plus amounts paid by the employer for: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129. The employer's deduction for wages is reduced by the amount of the credit.

Calculation of the credit

The welfare-to-work tax credit is available on an elective basis to employers of qualified long-term family assistance recipients during the first two years of employment. The maximum credit is 35 percent of the first $10,000 of qualified first-year wages and 50 percent of the first $10,000 of qualified second-year wages. Qualified first-year wages are defined as qualified wages (not in excess of $10,000) attributable to service rendered by a member of the targeted group during the one-year period beginning with the day the individual began work for the employer. Qualified second-year wages are defined as qualified wages (not in excess of $10,000) attributable to service rendered by a member of the targeted group during the one-year period beginning immediately after the first year of that individual's employment for the employer. The maximum credit is $8,500 per qualified employee.

Minimum employment period

No credit is allowed for qualified wages paid to a member of the targeted group unless they work at least 400 hours or 180 days in the first year of employment.

Coordination of the work opportunity tax credit and the welfare-to-work tax credit

An employer cannot claim the work opportunity tax credit with respect to wages of any employee on which the employer claims the welfare-to-work tax credit.

Other rules

The welfare-to-work tax credit incorporates directly or by reference many of these other rules contained on the work opportunity tax credit.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the welfare-to-work tax credit for two years (through December 31, 2005).

Effective date.—The extension of the welfare-to-work tax credit is effective for wages paid or incurred for individuals beginning work after December 31, 2003.

E. Qualified Zone Academy Bonds

(Sec. 304 of the conference agreement and sec. 1397E of the Code)

PRESENT LAW

Generally, "qualified zone academy bonds" are bonds issued by a State or local government, provided that at least 95 percent of the proceeds are used for one or more qualified purposes with respect to a "qualified zone academy" and private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds. Qualified purposes with respect to any qualified zone academy are (1) rehabilitating or repairing the public school facility in which the academy is established, (2) providing equipment for use at such academy, (3) developing course materials for education at such academy, and (4) training teachers and other school personnel. A total of $400 million of qualified zone academy bonds was authorized to be issued annually in calendar years 1998 through 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the authority to issue qualified zone academy bonds through 2005.

Effective date.—The authority to issue qualified zone academy bonds is effective for obligations issued after December 31, 2003.

F. Extension of Cover Over of Excise Tax on Distilled Spirits to Puerto Rico and Virgin Islands

(Sec. 305 of the conference agreement and sec. 7652 of the Code)

PRESENT LAW

A $13.50 per proof gallon (a proof gallon is a liquid gallon consisting of 50 percent alcohol) excise tax is imposed on distilled spirits produced in or imported into the United States.

The Code provides for cover over (payment) to Puerto Rico and the Virgin Islands of the excise tax imposed on rum imported into the United States, without regard to the country of origin. The amount of the cover over is limited under section 7652(f) to $10.50 per proof gallon ($13.25 per proof gallon during the period July 1, 1999 through December 31, 2003).

Thus, tax amounts attributable to rum produced in Puerto Rico are covered over to Puerto Rico. Tax amounts attributable to rum produced in the Virgin Islands are covered over to the Virgin Islands. Tax amounts attributable to rum produced in neither Puerto Rico nor the Virgin Islands are divided and covered over to the two possessions under a formula. All of the amounts covered over are subject to the limitation.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement temporarily suspends the $10.50 per proof gallon limitation on the amount of excise taxes on rum covered over to Puerto Rico and the Virgin Islands. Under the conference agreement, the cover over amount of $13.25 per proof gallon is extended for rum brought into the United States after December 31, 2003 and before January 1, 2006. After December 31, 2005, the cover over amount reverts to $10.50 per proof gallon.

Effective date.—The provision is effective for articles brought into the United States after December 31, 2003.

G. Charitable Contributions of Computer Technology and Equipment Used for Educational Purposes

(Sec. 306 of the conference agreement and sec. 170 of the Code)

PRESENT LAW

A deduction by a corporation for charitable contributions of computer technology and equipment generally is limited to the corporation's basis in the property. However, certain corporations may claim a deduction in excess of basis for a qualified computer contribution. Such enhanced deduction for qualified computer contributions expired for contributions made during any taxable year beginning after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the enhanced deduction for qualified computer contributions to contributions made during any taxable year beginning before January 1, 2006.

Effective date.—Taxable years beginning after December 31, 2003.

H. Certain Expenses of Elementary and Secondary School Teachers

(Sec. 307 of the conference agreement and sec. 62 of the Code)

PRESENT LAW

In general, ordinary and necessary business expenses are deductible (sec. 162). However, in general, unreimbursed employee business expenses are deductible only as an itemized deduction and only to the extent that the individual's total miscellaneous deductions (including employee business expenses) exceed two percent of adjusted gross income. An individual's otherwise allowable itemized deductions may be further limited by the overall limitation on itemized deductions, which reduces itemized deductions for taxpayers with adjusted gross income in excess of $142,700 (for 2004). In addition, miscellaneous itemized deductions are not allowable under the alternative minimum tax.

Certain expenses of eligible educators are allowed an above-the-line deduction. Specifically, for taxable years beginning in 2002 and 2003, an above-the-line deduction is allowed for up to $250 annually of expenses paid or incurred by an eligible educator for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom. To be eligible for this deduction, the expenses must be otherwise deductible under 162 as a trade or business expense. A deduction is allowed only to the extent the amount of expenses exceeds the amount excludable from income under section 135 (relating to education savings bonds), 529(c)(1) (relating to qualified tuition programs), and section 530(d)(2) (relating to Coverdell education savings accounts).

An eligible educator is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year. A school means any school which provides elementary education or secondary education, as determined under State law.

The above-the-line deduction for eligible educators is not allowed for taxable years beginning after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the above-the-line deduction for two years, i.e., for taxable years beginning in 2004 and 2005.

Effective date.—The conference agreement is effective for taxable years beginning in 2004 and 2005.

I. Expensing of Environmental Remediation Costs

(Sec. 308 of the conference agreement and sec. 198 of the Code)

PRESENT LAW

Taxpayers can elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred (sec. 198). The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

A "qualified contaminated site" generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory and (2) is at a site on which there has been a release (or threat of release) or disposal of certain hazardous substances as certified by the appropriate State environmental agency (so called "brownfields"). However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 cannot qualify as targeted areas.

Eligible expenditures were those paid or incurred before January 1, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the present law expensing provision for two years (through December 31, 2005).

Effective date.—Effective for expenses paid or incurred after December 31, 2003.

J. New York Liberty Zone Provisions

(Sec. 309 of the conference agreement and sec. 1400L of the Code)

PRESENT LAW

An aggregate of $8 billion in tax-exempt private activity bonds is authorized for the purpose of financing the construction and repair of infrastructure in New York City ("Liberty Zone bonds"). The bonds must be issued before January 1, 2005.

Certain bonds used to fund facilities located in New York City are permitted one additional advance refunding before January 1, 2005 ("advance refunding bonds"). In addition to satisfying other

requirements, the bond refunded must be (1) a State or local bond that is a general obligation of New York City, (2) a State or local bond issued by the New York Municipal Water Finance Authority or Metropolitan Transportation Authority of the City of New York, or (3) a qualified 501(c)(3) bond which is a qualified hospital bond issued by or on behalf of the State of New York or the City of New York. The maximum amount of advance refunding bonds is $9 billion.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends authority to issue Liberty Zone bonds through December 31, 2009. The conference agreement also extends the additional advance refunding authority through December 31, 2005. In addition, the conference agreement provides that bonds of the Municipal Assistance Corporation are eligible for advance refunding.

The purpose in extending the New York Liberty Bond program through December 31, 2009, is to facilitate the full designation of New York Liberty Bond authority. Congress could consider a further extension of the New York Liberty Bond program beyond 2009 if circumstances justify such an extension.

Effective date.—The Liberty Zone bonds and general additional advance refunding provisions are effective on the date of enactment. The provision relating to the advance refunding of bonds of the Municipal Assistance Corporation is effective as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

K. Tax Incentives for Investment in the District of Columbia

(Sec. 310 of the conference agreement and secs. 1400, 1400A, 1400B, 1400C, and 1400F of the Code)

PRESENT LAW

Certain economically depressed census tracts within the District of Columbia are designated as the District of Columbia Enterprise Zone (the "D.C. Zone") within which businesses and individual residents are eligible for special tax incentives. The designation expired on December 31, 2003.

First-time homebuyers of a principal residence in the District of Columbia are eligible for a nonrefundable tax credit of up to $5,000 of the amount of the purchase price. The credit expired for property purchased after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the D.C. Zone designation and related tax incentives for two years. The conference agreement extends the first-time homebuyer credit for two years.

Effective date.—The extension of the D.C. Zone designation and related tax incentives is generally effective on January 1, 2004, except that the provision relating to tax-exempt financing incentives applies to obligations issued after the date of enactment.

L. Combined Employment Tax Reporting

(Sec. 311 of the conference agreement and sec. 6103 of the Code)

PRESENT LAW

Traditionally, Federal tax forms are filed with the Federal government and State tax forms are filed with individual States. This necessitates duplication of items common to both returns.

The Taxpayer Relief Act of 1997 permitted implementation of a limited demonstration project to assess the feasibility and desirability of expanding combined Federal and State reporting. First, it was limited to the sharing of information between the State of Montana and the IRS. Second, it was limited to employment tax reporting. Third, it was limited to disclosure of the name, address, TIN, and signature of the taxpayer, which is information common to both the Montana and Federal portions of the combined form. Fourth, it was limited to a period of five years (expiring August 5, 2002).

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement provides authority through December 31, 2005, for any State to participate in a combined Federal and State employment tax reporting program, provided that the program has been approved by the Secretary.

Effective date.—The provision takes effect on the date of enactment.

M. Nonrefundable Personal Credits Allowed Against the Alternative Minimum Tax

(Sec. 312 of the conference agreement and sec. 26 of the Code)

PRESENT LAW

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly

and disabled, the adoption credit, the child tax credit,[71] the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, the credit for savers, and the D.C. first-time homebuyer credit).

For taxable years beginning in 2003, all the nonrefundable personal credits are allowed to the extent of the full amount of the individual's regular tax and alternative minimum tax.

For taxable years beginning after 2003, the credits (other than the adoption credit, child credit and credit for savers) are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit. The adoption credit, child credit, and IRA credit are allowed to the full extent of the individual's regular tax and alternative minimum tax.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the provision allowing the nonrefundable personal credits to the full extent of the regular tax and the alternative minimum tax for taxable years beginning in 2004 and 2005.

Effective date.—Taxable years beginning after December 31, 2003.

N. Extension of Credit for Electricity Produced From Certain Renewable Resources

(Sec. 313 of the conference agreement and sec. 45 of the Code)

PRESENT LAW

An income tax credit is allowed for the production of electricity from either qualified wind energy, qualified "closed-loop" biomass, or qualified poultry waste facilities. The amount of the credit is 1.8 cents per kilowatt hour for 2004. The credit amount is indexed for inflation.

The credit applies to electricity produced by a wind energy facility placed in service after December 31, 1993, and before January 1, 2004, to electricity produced by a closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2004, and to a poultry waste facility placed in service after December 31, 1999, and before January 1, 2004. The credit is allowable for production during the 10–year period after a facility is originally placed in service.

HOUSE BILL

No provision.

[71] A portion of the child credit may be refundable.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the placed in service date for wind energy facilities, "closed-loop" biomass facilities, and poultry waste facilities to include facilities placed in service prior to January 1, 2006.

Effective date.—Effective for facilities placed in service after December 31, 2003.

O. Suspension of 100-Percent-of-Net-Income Limitation on Percentage Depletion for Oil and Gas From Marginal Wells

(Sec. 314 of the conference agreement and sec. 613A of the Code)

PRESENT LAW

Percentage depletion method for oil and gas properties applies to independent producers and royalty owners. Generally, under the percentage depletion method, 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year. The amount deducted generally may not exceed 100 percent of the net income from the property in any year (the "net-income limitation"). The 100-percent net-income limitation for marginal wells is suspended for taxable years beginning after December 31, 1997, and before January 1, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the suspension of the net-income limitation for marginal wells for taxable years beginning before January 1, 2006.

Effective date.—The provision is effective for taxable years beginning after December 31, 2003.

P. Indian Employment Tax Credit

(Sec. 315 of the conference agreement and sec. 45A of the Code)

PRESENT LAW

In general, a credit against income tax liability is allowed to employers for the first $20,000 of qualified wages and qualified employee health insurance costs paid or incurred by the employer with respect to certain employees (sec. 45A). The credit is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs during the current year over the amount of such wages and costs incurred by the employer during 1993. The credit is an incremental credit, such that an employer's current-

year qualified wages and qualified employee health insurance costs (up to $20,000 per employee) are eligible for the credit only to the extent that the sum of such costs exceeds the sum of comparable costs paid during 1993. No deduction is allowed for the portion of the wages equal to the amount of the credit.

The wage credit is available for wages paid or incurred on or after January 1, 1994, in taxable years that begin before January 1, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the Indian employment credit incentive for one year (to taxable years beginning before January 1, 2006).

Effective date.—The provision is effective on the date of enactment.

Q. Accelerated Depreciation for Business Property on Indian Reservations

(Sec. 316 of the conference agreement and sec. 168(j) of the Code)

PRESENT LAW

With respect to certain property used in connection with the conduct of a trade or business within an Indian reservation, depreciation deductions under section 168(j) will be determined using the following recovery periods:

	Years
3-year property	2
5-year property	3
7-year property	4
10-year property	6
15-year property	9
20-year property	12
Nonresidential real property	22

"Qualified Indian reservation property" eligible for accelerated depreciation includes property which is (1) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, (2) not used or located outside the reservation on a regular basis, (3) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)), and (4) described in the recovery-period table above. In addition, property is not "qualified Indian reservation property" if it is placed in service for purposes of conducting gaming activities. Certain "qualified infrastructure property" may be eligible for the accelerated depreciation even if located outside an Indian reservation, provided that the purpose of such property is to connect with qualified infrastructure property located within the reservation (e.g., roads, power lines, water systems, railroad spurs, and communications facilities).

The depreciation deduction allowed for regular tax purposes is also allowed for purposes of the alternative minimum tax. The accelerated depreciation for Indian reservations is available with respect to property placed in service on or after January 1, 1994, and before January 1, 2005.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends eligibility for the special depreciation periods to property placed in service before January 1, 2006.

Effective date.—The provision is effective on the date of enactment.

R. Disclosure of Return Information Relating to Student Loans

(Sec. 317 of the conference agreement and sec. 6103(l)(13) of the Code)

PRESENT LAW

An exception to the general rule prohibiting disclosure is provided for disclosure to the Department of Education (but not to contractors thereof) to establish an appropriate repayment amount for an applicable student loan. The Department of Education disclosure authority is scheduled to expire after December 31, 2004.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the disclosure authority relating to the disclosure of return information to carry out income-contingent repayment of student loans. Under the conference agreement, no disclosures can be made after December 31, 2005.

Effective date.—The provision is effective on the date of enactment.

S. Credit for Qualified Electric Vehicles

(Sec. 318 of the conference agreement and sec. 30 of the Code)

PRESENT LAW

A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000. A qualified electric vehicle generally is a motor vehicle that is powered primarily

by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current. The full amount of the credit is available for purchases prior to 2004. The credit phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006. Under the phase down, the credit for 2004 is 75 percent of the otherwise allowable credit.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Repeals the phase down of the allowable tax credit for electric vehicles in 2004 and 2005. Thus, a taxpayer who purchases a qualifying vehicle may claim 100 percent of the otherwise allowable credit for vehicles purchased in 2004 and 2005. For vehicles purchased in 2006 the credit remains at 25 percent of the otherwise allowable amount as under present law.

Effective date.—Effective for vehicles placed in service after December 31, 2003.

T. Deduction for Qualified Clean-Fuel Vehicle Property

(Sec. 319 of the conference agreement and sec. 179A of the Code)

PRESENT LAW

Certain costs of qualified clean-fuel vehicle may be expensed and deducted when such property is placed in service. Qualified clean-fuel vehicle property includes motor vehicles that use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). The maximum amount of the deduction is $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 pounds; and $2,000 in the case of any other motor vehicle. The deduction phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006. Under the phase down, the deduction permitted for 2004 is 75 percent of the otherwise allowable amount.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Repeals the phase down of the allowable deduction for clean-fuel vehicles in 2004 and 2005. Thus, a taxpayer who purchases a

qualifying vehicle may claim 100 percent of the otherwise allowable deduction for vehicles purchased in 2004 and 2005. For vehicles purchased in 2006 the deduction remains at 25 percent of the otherwise allowable amount as under present law.

Effective date.—Effective for vehicles placed in service after December 31, 2003.

U. Disclosures Relating to Terrorist Activities

(Sec. 320 of the conference agreement and sec. 6103 of the Code)

PRESENT LAW

In connection with terrorist activities, the IRS was permitted to disclose return information, other than taxpayer return information, to officers and employees of Federal law enforcement upon a written request. The Code required the request to be made by the head of the Federal law enforcement agency (or his delegate) involved in the response to or investigation of terrorist incidents, threats, or activities, and set forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity. Disclosure of the information was permitted to officers and employees of the Federal law enforcement agency who were personally and directly involved in the response to or investigation of terrorist incidents, threats, or activities. The information was to be used by such officers and employees solely for such response or investigation.[72]

The Code permitted the head of the Federal law enforcement agency to redisclose the information to officers and employees of State and local law enforcement personally and directly engaged in the response to or investigation of the terrorist incident, threat, or activity. The State or local law enforcement agency was required to be part of an investigative or response team with the Federal law enforcement agency for these disclosures to be made.[73]

Return information includes a taxpayer's identity.[74] If a taxpayer's identity is taken from a return or other information filed with or furnished to the IRS by or on behalf of the taxpayer, it is taxpayer return information. Since taxpayer return information was not covered by this disclosure authorization, taxpayer identity so obtained could not be disclosed under this authority and thus associated with the other information being provided.

The Code also allowed the IRS to disclose return information (other than taxpayer return information) upon the written request of an officer or employee of the Department of Justice or Treasury who is appointed by the President with the advice and consent of the Senate, or who is the Director of the U.S. Secret Service, if such individual is responsible for the collection and analysis of intelligence and counterintelligence concerning any terrorist incident, threat, or activity.[75] Taxpayer identity information for this purpose was not considered taxpayer return information. Such written request was required to set forth the specific reason or reasons why

[72] Sec. 6103(i)(7)(A).
[73] Sec. 6103(i)(7)(A)(ii).
[74] Sec. 6103(b)(2)(A).
[75] Sec. 6103(i)(7)(B).

such disclosure may be relevant to a terrorist incident, threat, or activity. Disclosures under this authority were permitted to be made to those officers and employees of the Department of Justice, Treasury, and Federal intelligence agencies who were personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning any terrorist incident, threat, or activity. Such disclosures were permitted solely for the use of such officers and employees in such investigation, collection, or analysis.

The IRS, on its own initiative, was permitted to disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate investigating Federal law enforcement agency.[76] Taxpayer identity information for this purpose was not considered taxpayer return information. The head of the agency was permitted to redisclose such information to officers and employees of such agency to the extent necessary to investigate or respond to the terrorist incident, threat, or activity.

If taxpayer return information was sought, the disclosure was required to be made pursuant to the ex parte order of a Federal district court judge or magistrate.

No disclosures may be made under these provisions after December 31, 2003.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends the disclosure authority relating to terrorist activities. Under the conference agreement, no disclosures can be made after December 31, 2005.

The conference agreement also makes a technical change to clarify that a taxpayer's identity is not treated as taxpayer return information for purposes of disclosures to law enforcement agencies regarding terrorist activities.

Effective date.—The provision extending authority is effective for disclosures made on or after the date of enactment. The technical change is effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

V. Extension of Archer Medical Savings Accounts ("MSAs")

(Sec. 322 of the conference agreement and sec. 220 of the Code)

PRESENT LAW

In general

Within limits, contributions to an Archer MSA are deductible in determining adjusted gross income if made by an eligible indi-

[76] Sec. 6103(i)(3)(C).

vidual and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual. Earnings on amounts in an Archer MSA are not currently taxable. Distributions from an Archer MSA for medical expenses are not includible in gross income. Distributions not used for medical expenses are includible in gross income. In addition, distributions not used for medical expenses are subject to an additional 15-percent tax unless the distribution is made after age 65, death, or disability.

Eligible individuals

Archer MSAs are available to employees covered under an employer-sponsored high deductible plan of a small employer and self-employed individuals covered under a high deductible health plan.[77] An employer is a small employer if it employed, on average, no more than 50 employees on business days during either the preceding or the second preceding year. An individual is not eligible for an Archer MSA if he or she is covered under any other health plan in addition to the high deductible plan.

Tax treatment of and limits on contributions

Individual contributions to an Archer MSA are deductible (within limits) in determining adjusted gross income (i.e., "above-the-line"). In addition, employer contributions are excludable from gross income and wages for employment tax purposes (within the same limits), except that this exclusion does not apply to contributions made through a cafeteria plan. In the case of an employee, contributions can be made to an Archer MSA either by the individual or by the individual's employer.

The maximum annual contribution that can be made to an Archer MSA for a year is 65 percent of the deductible under the high deductible plan in the case of individual coverage and 75 percent of the deductible in the case of family coverage.

Definition of high deductible plan

A high deductible plan is a health plan with an annual deductible of at least $1,700 and no more than $2,600 in the case of individual coverage and at least $3,450 and no more than $5,150 in the case of family coverage. In addition, the maximum out-of-pocket expenses with respect to allowed costs (including the deductible) must be no more than $3,450 in the case of individual coverage and no more than $6,300 in the case of family coverage.[78] A plan does not fail to qualify as a high deductible plan merely because it does not have a deductible for preventive care as required by State law. A plan does not qualify as a high deductible health plan if substantially all of the coverage under the plan is for permitted coverage (as described above). In the case of a self-insured plan, the plan must in fact be insurance (e.g., there must be appropriate risk shifting) and not merely a reimbursement arrangement.

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[77] Self-employed individuals include more than two-percent shareholders of S corporations who are treated as partners for purposes of fringe benefit rules pursuant to section 1372.

[78] These dollar amounts are for 2004. These amounts are indexed for inflation, rounded to the nearest $50.

Cap on taxpayers utilizing Archer MSAs and expiration of pilot program

The number of taxpayers benefiting annually from an Archer MSA contribution is limited to a threshold level (generally 750,000 taxpayers). The number of Archer MSAs established has not exceeded the threshold level.

After 2003, no new contributions may be made to Archer MSAs except by or on behalf of individuals who previously had Archer MSA contributions and employees who are employed by a participating employer.

Trustees of Archer MSAs are generally required to make reports to the Treasury by August 1 regarding Archer MSAs established by July 1 of that year. If any year is a cut-off year, the Secretary is required to make and publish such determination by October 1 of such year.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement extends Archer MSAs through December 31, 2005. The conference agreement also provides that the reports required by MSA trustees for 2004 are treated as timely if made within 90 days after the date of enactment. In addition, the determination of whether 2004 is a cut-off year and the publication of such determination is to be made within 120 days of the date of enactment. If 2004 is a cut-off year, the cut-off date will be the last day of such 120-day period.

Effective date.—The provision is generally effective on January 1, 2004. The provisions relating to reports and the determination by the Secretary are effective on the date of enactment.

W. Extension of Joint Review of Strategic Plans and Budget for the Internal Revenue Service

(Sec. 321 of the conference agreement and secs. 8021 and 8022 of the Code)

PRESENT LAW

The Code required the Joint Committee on Taxation to conduct a joint review[79] of the strategic plans and budget of the IRS from 1999 through 2003.[80] The Code also required the Joint Committee to provide an annual report[81] from 1999 through 2003 with respect to:

Strategic and business plans for the IRS;

[79] The joint review was required to include two members of the majority and one member of the minority of the Senate Committees on Finance, Appropriations, and Governmental Affairs, and of the House Committees on Ways and Means, Appropriations, and Government Reform and Oversight.

[80] Sec. 8021(f).

[81] Sec. 8022(3)(C).

Progress of the IRS in meeting its objectives;

The budget for the IRS and whether it supports its objectives;

Progress of the IRS in improving taxpayer service and compliance;

Progress of the IRS on technology modernization; and

The annual filing season.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement requires that the Joint Committee conduct a joint review before June 1, 2005. The conference agreement also requires that the Joint Committee provide an annual report with respect to such joint review, and specifies that the content of the annual report is the matters addressed in the joint review.[82]

Effective date.—The conference agreement is effective on the date of enactment.

VI. TAX TECHNICAL CORRECTIONS

(Secs. 401–408 of the conference agreement)

PRESENT LAW

Certain recently enacted tax legislation needs technical, conforming, and clerical amendments in order to properly carry out the intention of the Congress.[83]

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes technical corrections to recently enacted tax legislation. Except as otherwise provided, the amendments made by the technical corrections contained in the conference agreement take effect as if included in the original legislation to which each amendment relates. The following is a description of the provisions contained in the technical corrections title:

[82] Accordingly, the provision deletes the specific list of matters required to be covered in the annual report.

[83] Tax technical corrections legislation, the "Tax Technical Corrections Act of 2003," was introduced in the House of Representatives (H.R. 3654) on December 8, 2003, and in the Senate (S. 1984) on December 9, 2003.

Amendments related to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003

Additional tax relating to health savings accounts.—Under present law, section 26(b) provides that "regular tax liability" does not include certain "additional taxes" and similar amounts. Under present law, regular tax liability does not include the additional tax on Archer MSA distributions not used for qualified medical expenses (sec. 220(f)(4)). The provision adds to the list of such amounts the additional tax on distributions not used for qualified medical expenses (sec. 223(f)(4)) under the rules relating to health savings accounts.

Health coverage tax credit.—Under present law, section 35(g)(3) provides that any amount distributed from an Archer MSA will not be taken into account for purposes of determining the amount of health coverage tax credit ("HCTC") an individual is eligible to receive. Under the provision, section 35(g)(3) is amended to provide that amounts distributed from health savings accounts are not to be taken into account for purposes of determining the amount of HCTC an individual is entitled to receive.

Amendments related to the Jobs and Growth Tax Relief Reconciliation Act of 2003

Dividends taxed at capital gain rates.—Section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 ("JGTRRA") generally provides that qualified dividend income of taxpayers other than corporations is taxed at the same tax rates as the net capital gain. The conference agreement makes the following amendments to the provisions adopted by that section:[84]

The provision clarifies that the determination of net capital gain, for purposes of determining the amount taxed at the 25–percent rate (section 1(h)(1)(D)(i)), is made without regard to qualified dividend income.

Under present law, the deduction for estate taxes paid on gain that is income in respect of a decedent reduces the amount of gain otherwise taken into account in computing the amount eligible for the lower tax rates on net capital gain (sec. 691(c)(4)). Since it is not entirely clear under present law whether this provision also applies to qualified dividends eligible for the lower tax rates on net capital gain, the conference agreement clarifies that the provision does so apply.

The provision clarifies that the extraordinary dividend rule applies to trusts and estates as well as individuals.

The provision rewrites portions of the provisions relating to the treatment of dividends received from a regulated investment company ("RIC") or a real estate investment trust ("REIT") to set forth the rules directly rather than be reference to rules applicable to dividends received by corporate shareholders.

The provision provides that all distributions by a RIC or REIT of the earnings and profits from C corporation years can be treated as qualifying dividends eligible for the lower rate.

[84] IR–2004–22 (Feb. 19, 2004) announced that the IRS agreed to make the technical correction provisions relating to dividends contained in the Technical Corrections Act of 2003, as introduced, available to taxpayers in advance of their passage.

The provision extends the 60–day period for notifying shareholders of the amount of the qualified dividend income distributed by a RIC or REIT for taxable years ending on or before November 30, 2003, to the date the 1099–DIV for 2003 is required.

The provision provides that, in the case of partnerships, S corporations, common trust funds, trusts, and estates, section 302 of JGTRRA applies to taxable years ending after December 31, 2002, except that dividends received by the entity prior to January 1, 2003, are not treated as qualified dividend income. JGTRRA provided a similar rule in the case of RICs and REITs.

Satisfaction of certain holding period requirements if stock is acquired on the day before ex-dividend date.—Under several similar holding period requirements relating to the tax consequences of receiving dividends, a taxpayer who acquires stock the day before the ex-dividend date cannot satisfy these holding period requirements with respect to the dividend. The conference agreement modifies the stock holding period requirements to permit taxpayers to satisfy the requirements when they acquire stock on the day before the ex-dividend date of the stock. Specifically, the conference agreement modifies the holding period requirement for the dividends-received deduction under section 246(c) (as modified by section 1015 of the Taxpayer Relief Act of 1997) by changing from 90 days to 91 days (and from 180 days to 181 days in the case of certain dividends on preferred stock) the period within which a taxpayer may satisfy the requirement. In addition, the conference agreement modifies the holding period requirement for foreign tax credits with respect to dividends under section 901(k) (enacted in section 1053 of the Taxpayer Relief Act of 1997) by changing from 30 days to 31 days (and from 90 days to 91 days in the case of certain dividends on preferred stock) the period within which a taxpayer may satisfy the requirement. The conference agreement modifies the holding period requirement for dividends to be taxed at the tax rates applicable to net capital gain under section 1(h)(11) (enacted in section 302 of JGTRRA) by changing from 120 days to 121 days (and from 180 days to 181 days in the case of certain dividends on preferred stock) the period within which a taxpayer may satisfy the requirement.

Amendments related to the Job Creation and Worker Assistance Act of 2002

Bonus depreciation.—Section 101 of the Job Creation and Worker Assistance Act of 2002 ("JCWA") provides generally for 30–percent additional first-year depreciation for qualifying property. Qualifying property is defined to include certain property subject to the capitalization rules of section 263A by reason of having an estimated production period exceeding 2 years or an estimated production period exceeding 1 year and a cost exceeding $1 million (secs. 168(k)(2)(B)(i)(III) and 263A(f)(1)(B)(ii) or (iii)). An unintended interpretation of this rule could preclude property from qualifying for bonus depreciation if it meets this description but is subject to the capitalization rules of section 263A by reason of section 263A(f)(1)(B)(i) (having a long useful life). The provision clarifies that qualifying property includes such property that is subject to the capitalization rules of section 263A and is described in the pro-

visions requiring an estimated production period exceeding 2 years or an estimated production period exceeding 1 year and a cost exceeding $1 million.

Section 101 of JCWA provides a binding contract rule in determining property that qualifies for it. The requirements that must be satisfied in order for property to qualify include that (1) the original use of the property must commence with the taxpayer on or after September 11, 2001, (2) the taxpayer must purchase the property after September 10, 2001, and before September 11, 2004, and (3) no binding written contract for the acquisition of the property is in effect before September 11, 2001 (or, in the case of self-constructed property, manufacture, construction, or production of the property does not begin before September 11, 2001). In addition, JCWA provides a special rule in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property is treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback. JCWA did not specifically address the syndication of a lease by the lessor.

The provision clarifies that property qualifying for additional first-year depreciation does not include any property if the user or a related party to the user or owner of such property had a written binding contract in effect for the acquisition of the property at any time on or before September 10, 2001 (or, in the case of self-constructed property, the manufacture, construction, or production of the property began on or before September 10, 2001). For example, if a taxpayer sells to a related party property that was under construction on or prior to September 10, 2001, the property does not qualify for the additional first-year depreciation deduction. Similarly, if a taxpayer sells to a related party property that was subject to a binding written contract on or prior to September 10, 2001, the property does not qualify for the additional first-year depreciation deduction. As a further example, if a taxpayer sells property and leases the property back in a sale-leaseback arrangement, and the lessee had a binding written contract in effect for the acquisition of such property on or prior to September 10, 2001, then the lessor is not entitled to the additional first-year depreciation deduction.

In addition, the provision provides that if property is originally placed in service by a lessor (including by operation of section Code 168(k)(2)(D)(i)), such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale.

Five-year carryback of net operating losses ("NOLs").—Section 102 of JCWA temporarily extends the NOL carryback period to five years (from two years, or three years in certain cases) for NOLs arising in taxable years ending in 2001 and 2002. The Act was enacted in March 2002, after some taxpayers had filed returns for 2001.

The provision (1) clarifies that only the NOLs arising in taxable years ending in 2001 and 2002 qualify for the 5-year period, and (2) provides that any election to forego any carrybacks of NOLs arising in 2001 or 2002 can be revoked prior to November 1, 2002. The provision also allows taxpayers until November 1, 2002, to use the tentative carryback adjustment procedures of section 6411 for NOLs arising in 2001 and 2002 (without regard to the 12-month limitation in section 6411). In addition, the provision clarifies that an election to disregard the 5-year carryback for certain NOLs is treated as timely made if made before November 1, 2002 (notwithstanding that section 172(j) requires the election to be made by the due date (including extensions) for filing the taxpayer's return for the year of the loss).[85]

The provision also makes several clerical changes to the NOL provisions relating to the alternative minimum tax.

New York Liberty Zone bonus depreciation.—Section 301 of JCWA provides tax benefits for the area of New York City damaged in terrorist attacks on September 11, 2001 (an area defined in the provision and named the New York Liberty Zone). Under these rules, an additional first-year depreciation deduction is allowed equal to 30 percent of the adjusted basis of qualified New York Liberty Zone ("Liberty Zone") property. A taxpayer is allowed to elect out of the additional first-year depreciation for any class of property for any taxable year. In addition, the Act provides a special rule in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property would be treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback. JCWA did not specifically address the syndication of a lease by the lessor.

The provision clarifies that property qualifying for additional first-year depreciation does not include any property if the user or a related party to the user or owner of such property had a written binding contract in effect for the acquisition of the property at any time before September 11, 2001 (or in the case of self constructed property the manufacture, construction, or production of the property began before September 11, 2001). In addition, the provision provides that if property is originally placed in service by a lessor (including by operation of section 168(k)(2)(D)(i)), such property is sold within three months after the date that the property was placed in service, and the user of such property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale.

New York Liberty Zone expensing.—Section 301 of JCWA increases the amount a taxpayer may expense under section 179 to the lesser of $35,000 or the amount of Liberty Zone property placed in service for the year. In addition, section 301(a) of the Act states that if property qualifies for both the general additional first-year depreciation and Liberty Zone additional first-year depreciation, it

[85] The corrections are consistent with the guidance issued by the IRS (Rev. Proc. 2002–40, 2002–1 C. B. 1096).

is deemed to be eligible for the general additional first-year depreciation and is not considered Liberty Zone property (i.e., only one 30-percent additional first-year depreciation deduction is allowed). Because only Liberty Zone property is eligible for the increased section 179 expensing amount, this rule has the unintended consequence of denying the increased section 179 expensing to Liberty Zone property. The provision corrects this unintended result (such that qualifying Liberty Zone property qualifies for both the 30-percent additional first-year depreciation and the additional section 179 expensing).

Provide election out of Liberty Zone five-year depreciation for leasehold improvements.—Section 1400L(c), as added by section 301 of JCWA, provides for a 5-year recovery period for depreciation of qualified New York Liberty Zone leasehold improvement property that is placed in service after September 10, 2001, and before January 1, 2007 (and meets certain other requirements). Unlike the rules relating to bonus depreciation and to Liberty Zone bonus depreciation property (see Code sections 168(k)(2)(C)(iii) and 1400L(b)(2)(C)(iv)), which permit a taxpayer to elect out, this 5-year depreciation rule is not elective. The provision adds a rule permitting taxpayers to elect out of the 5-year recovery period.

Interest rate for defined benefit plan funding requirements.—Section 405(c) of JCWA increases the interest rate used in determining the amount of unfunded vested benefits for PBGC variable rate premium purposes for plan years beginning in 2002 or 2003 from 85 percent to 100 percent of the interest rate on 30-year Treasury securities for the month preceding the month in which the applicable plan year begins. The provision makes conforming changes so that this rule applies for purposes of notices and reporting required under Title IV of ERISA with respect to underfunded plans.

Exclusion for employer-provided adoption assistance.—The provision corrects an incorrect reference in a technical correction to a provision relating to the exclusion for employer-provided adoption assistance.

Amendments related to the Economic Growth and Tax Relief Reconciliation Act of 2001

Coverdell education savings accounts.—The provision corrects the application of a conforming change to the rule coordinating Coverdell education savings accounts with Hope and Lifetime Learning credits and qualified tuition programs. The conforming change was made in connection with the expansion of Coverdell education savings accounts to elementary and secondary education expenses in section 401 of the Economic Growth and Tax Relief Reconciliation Act of 2001 "(EGTRRA").

Base period for cost-of-living adjustments to Indian employment credit rule.—The Indian employment credit is not available with respect to an employee whose wages exceed $30,000 (sec. 45A). For years after 1994, this $30,000 amount is adjusted for cost-of-living increases at the same time, and in the same manner, as cost-of-living adjustments to the dollar limits on qualified retirement plan benefits and contributions under section 415. Section 611 of EGTRAA increases the dollar limits under section 415 and adds a

new base period for making cost-of-living adjustments. The provision clarifies that the pre-existing base period applies for purposes of the Indian employment credit.

Rounding rule for retirement plan benefit and contribution limits.—Section 611 of EGTRRA increases the dollar limits on qualified retirement plan benefits and contributions under Code section 415, and adds a new rounding rule for cost-of-living adjustments to the dollar limit on annual additions to defined contribution plans. This new rounding rule is in addition to a pre-existing rounding rule that applies to benefits payable under defined benefit plans. The provision clarifies that the pre-existing rounding rule applies for purposes of other Code provisions that refer to Code section 415 and do not contain a specific rounding rule.

Excise tax on nondeductible contributions.—Under section 614 of EGTRRA, the limits on deductions for employer contributions to qualified retirement plans do not apply to elective deferrals, and elective deferrals are not taken into account in applying the deduction limits to other contributions. The provision makes a conforming change to the Code provision that applies an excise tax to nondeductible contributions.

SIMPLE plan contributions for domestic or similar workers.—Section 637 of EGTRRA provides an exception to the application of the excise tax on nondeductible retirement plan contributions in the case of contributions to a SIMPLE IRA or SIMPLE section 401(k) plan that are nondeductible solely because they are not made in connection with a trade or business of the employer (e.g., contributions on behalf of a domestic worker). Section 637 of EGTRRA did not specifically modify the present-law requirement that compensation for purposes of determining contributions to a SIMPLE plan must be wages subject to income tax withholding, even though wages paid to domestic workers are not subject to income tax withholding. The provision revises the definition of compensation for purposes of determining contributions to a SIMPLE plan to include wages paid to domestic workers, even though such amounts are not subject to income tax withholding.

Rollovers among various types of retirement plans.—Section 641 of EGTRRA expanded the rollover rules to allow rollovers among various types of tax-favored retirement plans. The provision makes a conforming change to the cross-reference to the rollovers rules in the Code provision relating to qualified retirement annuities.

Amendment related to the Community Renewal Tax Relief Act of 2000

Tax treatment of options and securities futures contracts.—The provision clarifies that the Secretary of the Treasury has the authority to prescribe regulations regarding the status of an option or a contract the value of which is determined directly or indirectly by reference to an index which becomes (or ceases to be) a narrow-based security index (as defined in section 1256(g)(6)). This authority includes, but is not limited to, regulations that provide for preserving the status of such an option or contract as appropriate.

Amendments related to the Taxpayer Relief Act of 1997

Qualified tuition programs.—Section 211 of the Taxpayer Relief Act of 1997 modified section 529(c)(5), relating to gift tax rules for qualified tuition programs, but did not include in the statutory language the requirement that, upon a change in the designated beneficiary of the program, the new beneficiary must be a member of the family of the old beneficiary for gift taxes not to apply. The legislative history for the provision stated that the new beneficiary had to be of the same generation as the old beneficiary and a member of the family of the old beneficiary for gift taxes not to apply. The provision clarifies that the gift taxes apply unless the new beneficiary is of the same (or higher) generation than the old beneficiary and is a member of the family of the old beneficiary.

Coverdell education savings accounts.—The provision corrects section 530(d)(4)(B)(iii), relating to Coverdell education savings accounts, by substituting for the undefined term "account holder" the defined term "designated beneficiary."

Constructive sale exception.—Section 1001(a) of the Taxpayer Relief Act of 1997 provides an exception from constructive sale treatment for any transaction that is closed before the end of the thirtieth day after the close of the taxable year in which the transaction was entered into, provided certain requirements are met after closing the transaction (section 1259(c)(3)). In the case of positions that are reestablished following a closed transaction but prior to satisfying the requirements for the exception from constructive sale treatment, the exception applies in a similar manner if the reestablished position itself is closed and similar requirements are met after closing the reestablished position. The provision clarifies that the exception applies in the same manner to all closed transactions, including reestablished positions that are closed.

Basis adjustments for QZAB held by S corporation.—Under present law, a shareholder of an S corporation that is an eligible financial institution may claim a credit with respect to a qualified zone academy bond ("QZAB") held by the S corporation. The amount of the credit is included in gross income of the shareholder. An unintended interpretation of these rules would be that the shareholder's basis in the stock of the S corporation is increased by the amount of the income inclusion, notwithstanding that the benefit of the credit flows directly to the shareholder rather than to the corporation, and the corporation has no additional assets to support the basis increase. The provision clarifies that the basis of stock in an S corporation is not affected by the QZAB credit.

Capital gains and AMT.—The provision provides that the maximum amount of adjusted net capital gain eligible for the five-percent rate under the alternative minimum tax is the excess of the maximum amount of taxable income that may be taxed at a rate of less than 25 percent under the regular tax (for example, $56,800 for a joint return in 2003)) over the taxable income reduced by the adjusted net capital gain.

The provision may be illustrated by the following example:

For example, assume that a married couple with no dependents in 2003 has $32,100 of salary, $82,000 of long-term capital gain from the sale of stock, $73,000 of itemized deductions consisting entirely of state and local taxes and allowable miscellaneous

itemized deductions. For purposes of the regular tax, the taxable income is $35,000 ($32,100 plus $82,000 minus $73,000 minus $6,100 deduction for personal exemptions). For purposes of the alternative minimum tax, the taxable excess is $56,100 ($32,100 plus $82,000 less the $58,000 exemption amount).

Under present law, the amount taxed under the regular tax at five percent is $35,000 (the lesser of (i) taxable income ($35,000), (ii) adjusted net capital gain ($82,000), or (iii) the excess of the maximum amount taxed at the 10- and 15-percent rates ($56,800 in 2003) over the ordinary taxable income (zero)). Thus, the regular tax is $1,750.

Under present law, $35,000 is taxed at five percent in computing the alternative minimum tax (the lesser of (i) amount of the adjusted net capital gain which is taxed at the five percent under the regular tax ($35,000), or (ii) the taxable excess ($56,100)). The remaining $21,100 of taxable excess is taxed at 15 percent, for a total tentative minimum tax of $4,915.

Under the provision, in computing the alternative minimum tax, $56,100 is taxed at five percent (the lesser of (i) the taxable excess ($56,100), (ii) the adjusted net capital gain ($82,000), or (iii) the excess of the maximum amount taxed at the 10- and 15-percent rates under the regular tax ($56,800) over the ordinary taxable income (zero)). The tentative minimum tax is $2,805.

Amendment related to the Small Business Job Protection Act of 1996

S corporation post-termination transition period.—Shareholders of an S corporation whose status as an S corporation terminates are allowed a period of time after the termination (the post-termination transition period ("PTTP")) to utilize certain of the benefits of S corporation status. The shareholders may claim losses and deductions previously suspended due to lack of stock or debt basis up to the amount of the stock basis as of the last day of the PTTP (sec. 1366(d)). Also, shareholders may receive cash distributions from the corporation during the PTTP that are treated as returns of capital to the extent of any balance in the S corporation's accumulated adjustments account ("AAA") (sec. 1371(e)).

The PTTP generally begins on the day after the last day of the corporation's last tax year as an S corporation and ends on the later of the day which is one year after such last day or the due date for filing the return for such last year as an S corporation (including extensions). Section 1307 of the Small Business Job Protection Act of 1996 added a new 120-day PTTP following an audit of the corporation that adjusts an S corporation item of income, loss, or deduction arising during the most recent period while the corporation was an S corporation. This provision was enacted to allow the tax-free distribution of any additional income determined in the audit.

As a result of the 1996 legislation, an S corporation shareholder might take the position that an audit adjustment allows the shareholder to utilize suspended losses and deductions in excess of the amount of the audit deficiency. For example, assume that, at the end of the one-year PTTP following the termination of a corporation's S corporation status, a shareholder has $1 million of sus-

pended losses in the corporation. Later, the shareholder purchases additional stock in the corporation for $1 million. The corporation's audit determines a $25,000 increase in the S corporation's income. Although the $25,000 increase in income would allow $25,000 of suspended losses to be allowed, the shareholder might take the position that the entire $1,000,000 of suspended losses could be utilized during the 120-day PTTP following the end of the audit. Similarly, an S corporation that had failed to distribute the entire amount in its AAA during the one-year PTTP following the loss of S corporation status might argue that it could distribute that amount, in addition to the amount determined in the audit, during the 120-day period following the audit.

The provision provides that the 120-day PTTP added by the 1996 Act does not apply for purposes of allowing suspended losses to be deducted (since the increased income determined in the audit can be offset with the losses), and allows tax-free distributions of money by the corporation during the 120-day period only to the extent of any increase in the AAA by reason of adjustments from the audit.

Defined contribution plans.—The Small Business Job Protection Act of 1996 amended section 401(a)(26) (generally requiring that a qualified retirement plan benefit the lesser of 50 employees or 40 percent of the employer's workforce) so that it no longer applies to defined contribution plans. Section 401(a)(26)(C) (which treats employees as benefiting in certain circumstances) was not repealed even though it relates only to defined contribution plans. The provision repeals section 401(a)(26)(C).

Clerical amendments

The conference agreement makes a number of clerical and typographical amendments.

VII. TAX COMPLEXITY ANALYSIS

The following tax complexity analysis is provided pursuant to section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998, which requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service ("IRS") and the Treasury Department) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or a Conference Report containing tax provisions. The complexity analysis is required to report on the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation, a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

1. Modifications to the child tax credit and earned income credit (secs. 101, 102, 103, and 104 of the conference agreement)

Summary description of provision

The amount of the child credit is increased to $1,000 for 2005–2009. The conference agreement also accelerates to 2004 the increase in refundability of the child credit to 15 percent of the taxpayer's earned income in excess of $10,750.

The conference agreement provides that combat pay that is otherwise excluded from gross income under section 112 is treated as earned income which is taken into account in computing taxable income for purposes of calculating the refundable portion of the child credit.

The conference agreement provides that any taxpayer may elect to treat combat pay that is otherwise excluded from gross income under section 112 as earned income for purposes of the earned income credit. This election is available with respect to any taxable year ending after the date of enactment and before January 1, 2006.

All modifications to the child credit and earned income credit under the conference agreement are subject to the sunset provision of EGTRRA.

Number of affected taxpayers

It is estimated that the provisions will affect approximately 28 million individual tax returns.

Discussion

Individuals should not have to keep additional records due to this provision, nor will additional regulatory guidance be necessary to implement this provision.

2. Standard deduction tax relief (sec. 101 of the conference agreement)

Summary description of provision

The conference agreement accelerates the increase in the basic standard deduction amount for joint returns to twice the basic standard deduction amount for unmarried individual returns effective for 2005–2008. All modifications to the basic standard deduction under the conference agreement are subject to the sunset provision of EGTRRA.

Number of affected taxpayers

It is estimated that the provision will affect approximately 22 million individual returns.

Discussion

It is not anticipated that individuals will need to keep additional records due to this provision. The higher basic standard deduction should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision. In addition, the provision should not increase individuals' tax preparation costs.

Some taxpayers who currently itemize deductions may respond to the provision by claiming the increased standard deduction in lieu of itemizing. According to estimates by the staff of the Joint Committee on Taxation, approximately three million individual tax returns will realize greater tax savings from the increased standard deduction than from itemizing their deductions. In addition to the tax savings, such taxpayers will no longer have to file Schedule A to Form 1040 and a significant number of them will no longer need to engage in the record keeping inherent in itemizing below-the-line deductions. Moreover, by claiming the standard deduction, such taxpayers may qualify to use simpler versions of the Form 1040 (i.e., Form 1040EZ or Form 1040A) that are not available to individuals who itemize their deductions. These forms simplify the return preparation process by eliminating from the Form 1040 those items that do not apply to particular taxpayers.

This reduction in complexity and record keeping also may result in a decline in the number of individuals using a tax preparation service or a decline in the cost of using such a service. Furthermore, if the provision results in a taxpayer qualifying to use one of the simpler versions of the Form 1040, the taxpayer may be eligible to file a paperless Federal tax return by telephone. The provision also should reduce the number of disputes between taxpayers and the IRS regarding substantiation of itemized deductions.

3. Expansion of the 15-percent rate bracket (sec. 101 of the conference agreement)

Summary description of provision

The bill accelerates the increase of the size of the 15–percent regular income tax rate bracket for married individuals filing joint returns to twice the width of the 15–percent regular income tax rate bracket for unmarried individual returns effective for 2005–2007. All modifications to the 15–percent rate bracket under the conference agreement are subject to the sunset provision of EGTRRA.

Number of affected taxpayers

It is estimated that the provision will affect approximately 19 million individual tax returns.

Discussion

It is not anticipated that individuals will need to keep additional records due to this provision. The increased size of the 15-percent regular income tax rate bracket for married individuals filing joint returns should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision.

4. Ten-percent income tax rate for individuals (sec. 101 of the conference agreement)

Summary description of provision

The conference agreement extends the size of the 10-percent rate bracket through 2010. Specifically, the size of the 10-percent

rate bracket for 2005 through 2010 is set at the 2003 level ($7,000 for single individuals, $10,000 for heads of households and $14,000 for married individuals) with annual indexing from 2003. The modifications to the 10-percent rate bracket under the conference agreement are subject to the sunset provision of EGTRRA.

Number of affected taxpayers

It is estimated that the provision will affect approximately 73 million individual tax returns.

Discussion

It is not anticipated that individuals will need to keep additional records due to this provision. It should not result in an increase in disputes with the IRS, nor will regulatory guidance be necessary to implement this provision. In addition, the provision should not increase the tax preparation costs for most individuals. Reductions in the regular income tax as a result of these rate reductions will cause some taxpayers to become subject to the alternative minimum tax.

5. Uniform definition of qualifying child (secs. 201–207 of the conference agreement)

Summary description of provision

The bill creates a uniform definition of qualifying child for purposes of the dependency exemption, child credit, earned income credit, dependent care credit, and head of household filing status. The bill is effective for taxable years beginning after December 31, 2004.

Number of affected taxpayers

It is estimated that the provisions will affect over 40 million individual tax returns.

Discussion

Adopting a uniform definition of qualifying child will make it easier for taxpayers to determine whether they qualify for various tax benefits for children and reduce inadvertent errors arising from confusion due to different definitions of qualifying child. The use of a residency test for the uniform definition should be easier to apply than a support test.

The bill will provide simplification to substantial numbers of taxpayers. However, the transition from the present-law system to a uniform definition of child will add temporary complexity from the tax administration perspective. The IRS will be required to modify forms and instructions to implement the uniform definition of child, and taxpayers will be required to learn a new set of rules. There may be confusion for taxpayers who may no longer be eligible to claim a child for certain purposes under the Code. These changes could lead to increased taxpayer errors in filing. In the long run, these effects will be mitigated and the benefits of making the uniform definition will result in less complexity and better tax administration.

ESTIMATED REVENUE EFFECTS OF THE CONFERENCE AGREEMENT FOR H.R. 1308, THE "WORKING FAMILIES TAX RELIEF ACT OF 2004"

Fiscal Years 2005 - 2014

[Millions of Dollars]

Provision	Effective	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
Tax Reduction Provisions													
1. Extension of Family Tax Provisions:													
a. Extend $1,000 child tax credit through 12/31/09	tyba 12/31/04	-2,638	-13,193	-13,198	-13,227	-12,376	-6,942	---	---	---	---	-54,632	-61,574
b. Extend marriage penalty relief through 12/31/08	tyba 12/31/04	-5,415	-5,412	-3,050	-1,493	-323	---	---	---	---	---	-15,693	-15,693
c. Extend 10% bracket through 12/31/10	tyba 12/31/04	-4,262	-6,423	-6,796	-4,330	-3,229	-3,315	-1,006	---	---	---	-25,040	-29,361
2. Accelerate refundability of child credit to 2004	tyba 12/31/03	-1,993	---	---	---	---	---	---	---	---	---	-1,993	-1,993
3. Extend individual AMT relief through 12/31/05	tyba 12/31/04	-9,031	-13,546	---	---	---	---	---	---	---	---	-22,577	-22,577
4. Inclusion of combat pay in earned income for purposes of the child tax credit and for purposes of earned income credit at taxpayer's election	[1]	-49	-50	-24	-21	-18	-19	-17	---	---	---	-162	-199
Total of Tax Reduction Provisions		**-23,388**	**-38,624**	**-23,068**	**-19,071**	**-15,946**	**-10,276**	**-1,023**	**0**	**0**	**0**	**-120,097**	**-131,397**
Uniform Definition of a Qualifying Child for the Dependency Exemption, the Child Credit, the EIC, the Dependent Care Credit, and Head-of-Household Filing Status	**tyba 12/31/04**	**-84**	**-206**	**-209**	**-218**	**-225**	**-229**	**-183**	**-75**	**-75**	**-76**	**-942**	**-1,579**
Extension of Certain Expiring Provisions													
1. Extension of the R&E credit (sunset 12/31/05)	epoia 6/30/04	-3,480	-1,986	-936	-678	-390	-90	---	---	---	---	-7,470	-7,560
2. Parity in the application of certain limits to mental health benefits (sunset 12/31/05) [2]	DOE	-4	-43	-10	---	---	---	---	---	---	---	-57	-57
3. Work opportunity tax credit (sunset 12/31/05)	wpoifibwa 12/31/03	-278	-181	-81	-39	-23	-9	-1	---	---	---	-603	-614
4. Welfare-to-work tax credit (sunset 12/31/05)	wpoifibwa 12/31/03	-35	-39	-28	-14	-7	-4	-1	[3]	---	---	-122	-127
5. Qualified zone academy bonds (sunset 12/31/05)	oia 12/31/03	-3	-10	-20	-27	-28	-28	-28	-28	-28	-28	-89	-231
6. Increase in limit on cover over of rum excise tax revenues (from $10.50 to $13.25 per proof gallon) to Puerto Rico and the Virgin Islands (sunset 12/31/05)	abiUSa 12/31/03	-151	-18	---	---	---	---	---	---	---	---	-169	-169
7. Extension of enhanced deduction for qualified computer contributions (sunset for taxable years beginning after 12/31/05)	cmd tyba 12/31/03	-198	-62	---	---	---	---	---	---	---	---	-260	-260
8. Above-the-line deduction for teacher classroom expenses capped at $250 annually (sunset 12/31/05)	tyba 12/31/03	-227	-192	---	---	---	---	---	---	---	---	-419	-419
9. Expensing of "Brownfields" environmental remediation costs (sunset 12/31/05)	epoia 12/31/03	-409	-93	32	38	39	34	30	26	22	20	-394	-261

Provision	Effective	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
10. New York Liberty Zone bond provisions [4]:													
a. Extend authority to issue Liberty Zone bonds (sunset 12/31/09); add municipal assistance corporation to eligible advance refunding bonds	generally 1/1/05	-4	-18	-34	-47	-58	-65	-65	-65	-65	-65	-162	-486
b. Extend authority to issue advance refunding bonds (sunset 12/31/05)	1/1/05	-6	-15	-16	-15	-12	-10	-8	-6	-4	-2	-64	-93
11. Tax incentives for investment in the District of Columbia (sunset 12/31/05)	[5]	-161	-56	-18	-12	-17	-62	-74	-42	-42	-37	-264	-522
12. Combined employment tax reporting (sunset 12/31/05)	do/a DOE	*No Revenue Effect*											
13. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/05) [6]	tyba 12/31/03	-332	-260	---	---	---	---	---	---	---	---	-592	-592
14. Tax credit for electricity production from wind, closed-loop biomass, and poultry litter -- facilities placed in service date (sunset 12/31/05)	fpisa 12/31/03	-44	-75	-97	-111	-127	-139	-144	-149	-151	-126	-454	-1,163
15. Extension of suspension of 100% of taxable income limit with respect to marginal production (through 12/31/05)	tyba 12/31/03	-78	-16	---	---	---	---	---	---	---	---	-94	-94
16. Indian employment tax credit (sunset 12/31/05)	1/1/05	-25	-34	-10	---	---	---	---	---	---	---	-68	-68
17. Accelerated depreciation for business property on Indian reservation (sunset 12/31/05)	1/1/05	-150	-261	-97	21	71	111	90	48	5	-10	-418	-173
18. Disclosure of tax return information to carry out administration of income contingent repayment of student loans (sunset 12/31/05) [7]	1/1/05	*No Revenue Effect*											
19. Tax credit for qualified electric vehicles (100% benefit through 12/31/05)	ppisa 12/31/03	-5	-1	[8]	[8]	[8]	[8]	[8]	[8]	---	---	-5	-5
20. Deduction for clean-fuel vehicles (100% benefit through 12/31/05)	ppisa 12/31/03	-119	-16	25	16	12	7	2	---	---	---	-81	-72
21. Disclosures relating to terrorist activities (sunset 12/31/05):													
a. Extension of authority to make disclosures regarding terrorist activities	dmo/a DOE	*No Revenue Effect*											
b. Technical correction regarding disclosure of taxpayer identity to law enforcement officials investigating terrorist activities	[9]	*No Revenue Effect*											
22. Availability of Archer medical savings accounts (sunset 12/31/05)	1/1/04	*Negligible Revenue Effect*											
23. Joint Committee on Taxation report and joint hearing on IRS strategic plans (sunset 12/31/05)	DOE	*No Revenue Effect*											
Total of Extension of Certain Expiring Provisions		**-5,709**	**-3,376**	**-1,290**	**-868**	**-540**	**-255**	**-199**	**-216**	**-263**	**-248**	**-11,785**	**-12,966**
Technical Correction Provisions	**DOE**	***No Revenue Effect***											
NET TOTAL [10]		**-29,181**	**-42,206**	**-24,567**	**-20,157**	**-16,711**	**-10,760**	**-1,405**	**-291**	**-338**	**-324**	**-132,824**	**-145,942**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be October 1, 2004.

[Legend and Footnotes for Table appear on the following page]

Legend and Footnotes for Table:

Legend for "Effective" column:

abiUSa = articles brought into the United States after
cmd = contributions made during
do/a = disclosures on or after
dmo/a = disclosures made on or after
DOE = date of enactment
epoia = expenditures paid or incurred after
fpisa = facilities placed in service after
oia = obligations issued after
ppisa = property placed in service after
tyba = taxable years beginning after
wpoifibwa = wages paid or incurred for individuals beginning work after

[1] For purposes of the child tax credit, effective for taxable years beginning after December 31, 2003; for purposes of earned income credit at taxpayer's election, effective for taxable years ending after the date of enactment and before January 1, 2006.

[2] This provision will have a negligible effect on penalty excise tax receipts. However it will have an indirect effect on income tax receipts through increases in employer-contributions for health insurance and corresponding decreases in cash wages. The table shows this indirect revenue effect, which was estimated by the Congressional Budget Office.

[3] Loss of less than $500,000.

[4] The New York City Liberty Zone is defined as all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan, New York, NY.

[5] Generally effective January 1, 2004, except for the bond provision which is effective for obligations issued after the date of enactment.

[6] The "Economic Growth and Tax Relief Reconciliation Act of 2001" provides that the child tax credit and adoption tax credit are allowed for purposes of the alternative minimum tax for 2002 through 2010.

[7] Estimate provided by the Congressional Budget Office.

[8] Gain of less than $500,000.

[9] Effective as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

		2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-09	2005-14
HIDE Family tax provisions	---	---	4,784	4,468	4,472	4,464	2,842	133	---	---	---	18,188	21,163
HIDE Refundability acceleration	---	1,929	---	---	---	---	---	---	---	---	---	1,929	1,929
HIDE Combat pay	---	46	47	24	21	18	19	17	---	---	---	157	193
HIDE UDQC	---	---	38	39	40	43	44	45	25	26	26	159	325
HIDE Rum cover	---	151	18	---	---	---	---	---	---	---	---	169	169
[10] Includes the following change in outlays		2,126	4,887	4,531	4,533	4,525	2,905	195	25	26	26	20,602	23,779

For consideration of the House amendment and the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,
TOM DELAY,
Managers on the Part of the House.

CHUCK GRASSLEY,
DON NICKLES,
TRENT LOTT,
MAX BAUCUS,
BLANCHE L. LINCOLN,
Managers on the Part of the Senate.

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