

111TH CONGRESS
2^D SESSION

S. 3018

To amend the Internal Revenue Code of 1986 to make the Federal income tax system simpler, fairer, and more fiscally responsible, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2010

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

A BILL

To amend the Internal Revenue Code of 1986 to make the Federal income tax system simpler, fairer, and more fiscally responsible, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Bipartisan Tax Fairness and Simplification Act of
7 2010”.

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this Act an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

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

- Sec. 1. Short title; amendment of 1986 Code; table of contents.
- Sec. 2. Purpose.

TITLE I—INDIVIDUAL INCOME TAX REFORMS

- Sec. 101. 3 progressive individual income tax rates.
- Sec. 102. Increase in basic standard deduction.
- Sec. 103. Permanent extension of expansion of earned income credit.
- Sec. 104. Permanent extension of expansion of dependent care credit.
- Sec. 105. Permanent extension of child tax credit.
- Sec. 106. Permanent repeal of limitations on personal exemptions and itemized deductions.
- Sec. 107. Elimination of individual miscellaneous itemized deductions.
- Sec. 108. Treatment of capital gains.
- Sec. 109. Partial exclusion of dividends received by individuals.
- Sec. 110. Nonrefundable personal credit for interest on State and local bonds.
- Sec. 111. Retirement savings accounts.
- Sec. 112. Lifetime Savings Accounts.
- Sec. 113. Consolidation of tax credits and deductions for education expenses.
- Sec. 114. Termination of various exclusions, exemptions, deductions, and credits.
- Sec. 115. Simplified tax return preparation.

TITLE II—CORPORATE AND BUSINESS INCOME TAX REFORMS

- Sec. 201. Corporate flat tax.
- Sec. 202. Treatment of travel on corporate aircraft.
- Sec. 203. Unlimited expensing of depreciable assets and inventories for certain small businesses.
- Sec. 204. Termination of various preferential treatments.
- Sec. 205. Pass-through business entity transparency.
- Sec. 206. Modification of effective date of leasing provisions of the American Jobs Creation Act of 2004.
- Sec. 207. Revaluation of LIFO inventories of large integrated oil companies.
- Sec. 208. Modifications of foreign tax credit rules applicable to large integrated oil companies which are dual capacity taxpayers.
- Sec. 209. Repeal of lower of cost or market value of inventory rule.
- Sec. 210. Reinstitution of per country foreign tax credit.
- Sec. 211. Application of rules treating inverted corporations as domestic corporations to certain transactions occurring after March 20, 2002.
- Sec. 212. Indexing corporate interest deduction for inflation.
- Sec. 213. Prohibition of advance refunding of bonds.

Sec. 214. CBO study on government spending on businesses.

TITLE III—REPEAL OF ALTERNATIVE MINIMUM TAX

Sec. 301. Repeal of alternative minimum tax.

TITLE IV—OTHER PROVISIONS

Subtitle A—Improvements in Tax Compliance

- Sec. 401. Information reporting on payments to corporations.
- Sec. 402. Additional reporting requirements by regulation.
- Sec. 403. Increase in information return penalties.
- Sec. 404. E-filing requirement for certain large organizations.
- Sec. 405. Implementation of standards clarifying when employee leasing companies can be held liable for their clients' Federal employment taxes.
- Sec. 406. Expansion of IRS access to information in National Directory of New Hires for tax administration purposes.
- Sec. 407. Modification of criminal penalties for willful failures involving tax payments and filing requirements.
- Sec. 408. Penalties for failure to file certain returns electronically.
- Sec. 409. Reporting on identification of beneficial owners of certain foreign financial accounts.

Subtitle B—Requiring Economic Substance

- Sec. 411. Clarification of economic substance doctrine.
- Sec. 412. Penalty for understatements attributable to transactions lacking economic substance, etc.
- Sec. 413. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions.

Subtitle C—Internet Gambling Taxation and Regulation

- Sec. 421. Tax on Internet gambling; licensee information reporting.
- Sec. 422. Withholding from certain gambling winnings.
- Sec. 423. Withholding of tax on nonresident aliens.
- Sec. 424. Territorial extent.
- Sec. 425. Federal licensing requirement for Internet gambling operators.
- Sec. 426. Report required.
- Sec. 427. Effective date.

Subtitle D—Miscellaneous

- Sec. 431. Denial of deduction for punitive damages.
- Sec. 432. Application of medicare payroll tax to all State and local government employees.
- Sec. 433. Corrections for CPI overstatement in cost-of-living indexation.

TITLE V—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 501. Technical and conforming amendments.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to amend the Internal Rev-
3 enue Code of 1986—

4 (1) to make the Federal individual income tax
5 system simpler, fairer, and more transparent by,
6 among other reforms—

7 (A) repealing the individual alternative
8 minimum tax,

9 (B) increasing the basic standard deduc-
10 tion and maintaining itemized deductions for
11 mortgage interest and charitable contributions,
12 and

13 (C) reducing the number of exclusions, ex-
14 emptions, deductions, and credits,

15 (2) to make the Federal corporate income tax
16 rate a flat 24 percent, repeal the corporate alter-
17 native minimum tax, and eliminate special tax pref-
18 erences that favor particular types of businesses or
19 activities, and

20 (3) to partially offset the Federal budget deficit
21 through the increased fiscal responsibility resulting
22 from these reforms.

1 **TITLE I—INDIVIDUAL INCOME**
 2 **TAX REFORMS**

3 **SEC. 101. 3 PROGRESSIVE INDIVIDUAL INCOME TAX RATES.**

4 (a) MARRIED INDIVIDUALS FILING JOINT RETURNS
 5 AND SURVIVING SPOUSES.—The table contained in sec-
 6 tion 1(a) is amended to read as follows:

“If taxable income is:	The tax is:
Not over \$75,000	15% of taxable income.
Over \$75,000 but not over \$140,000.	\$11,250, plus 25% of the excess over \$75,000.
Over \$140,000	\$27,500, plus 35% of the excess over \$140,000”.

7 (b) HEADS OF HOUSEHOLDS.—The table contained
 8 in section 1(b) is amended to read as follows:

“If taxable income is:	The tax is:
Not over \$56,250	15% of taxable income.
Over \$56,250 but not over \$105,000.	\$8,437.50, plus 25% of the excess over \$56,250.
Over \$105,000	\$20,625, plus 35% of the excess over \$105,000”.

9 (c) UNMARRIED INDIVIDUALS (OTHER THAN SUR-
 10 VIVING SPOUSES AND HEADS OF HOUSEHOLDS).—The
 11 table contained in section 1(c) is amended to read as fol-
 12 lows:

“If taxable income is:	The tax is:
Not over \$37,500	15% of taxable income.
Over \$37,500 but not over \$70,000.	\$5,625, plus 25% of the excess over \$37,500.
Over \$70,000	\$13,750, plus 35% of the excess over \$70,000”.

13 (d) MARRIED INDIVIDUALS FILING SEPARATE RE-
 14 TURNS.—The table contained in section 1(d) is amended
 15 to read as follows:

“If taxable income is:	The tax is:
Not over \$37,500	15% of taxable income.

“If taxable income is:	The tax is:
Over \$37,500 but not over \$70,000.	\$5,625, plus 25% of the excess over \$37,500.
Over \$70,000	\$13,750, plus 35% of the excess over \$70,000”.

1 (e) CONFORMING AMENDMENTS TO INFLATION AD-
2 JUSTMENT.—Section 1(f) is amended—

3 (1) by striking “1993” in paragraph (1) and in-
4 sserting “2011”,

5 (2) by striking “except as provided in para-
6 graph (8)” in paragraph (2)(A),

7 (3) by striking “1992” in paragraph (3)(B) and
8 inserting “2010”,

9 (4) by striking paragraphs (7) and (8), and

10 (5) by striking “PHASEOUT OF MARRIAGE PEN-
11 ALTY IN 15-PERCENT BRACKET;” in the heading
12 thereof.

13 (f) ADDITIONAL CONFORMING AMENDMENTS.—

14 (1) Section 1 is amended by striking subsection
15 (i).

16 (2) The Internal Revenue Code of 1986 is
17 amended by striking “calendar year 1992” each
18 place it appears and inserting “calendar year 2010”.

19 (g) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2010.

1 **SEC. 102. INCREASE IN BASIC STANDARD DEDUCTION.**

2 (a) IN GENERAL.—Paragraph (2) of section 63(c)
3 (defining standard deduction) is amended to read as fol-
4 lows:

5 “(2) BASIC STANDARD DEDUCTION.—For pur-
6 poses of paragraph (1), the basic standard deduction
7 is—

8 “(A) 200 percent of the dollar amount in
9 effect under subparagraph (C) for the taxable
10 year in the case of—

11 “(i) a joint return, or

12 “(ii) a surviving spouse (as defined in
13 section 2(a)),

14 “(B) \$22,500 in the case of a head of
15 household (as defined in section 2(b)), or

16 “(C) \$15,000 in any other case, reduced
17 by any deduction allowed under section
18 62(a)(22) for such taxable year.”.

19 (b) CONFORMING AMENDMENT TO INFLATION AD-
20 JUSTMENT.—Section 63(c)(4)(B)(i) is amended by strik-
21 ing “(2)(B), (2)(C), or”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 2010.

1 **SEC. 103. PERMANENT EXTENSION OF EXPANSION OF**
2 **EARNED INCOME CREDIT.**

3 (a) REPEAL OF EGTRRA SUNSET.—Title IX of the
4 Economic Growth and Tax Relief Reconciliation Act of
5 2001 (relating to sunset of provisions of such Act) shall
6 not apply to section 303 of such Act (relating to earned
7 income tax credit).

8 (b) EFFECTIVE DATE.—Subsection (a) shall apply to
9 taxable years beginning after December 31, 2010.

10 **SEC. 104. PERMANENT EXTENSION OF EXPANSION OF DE-**
11 **PENDENT CARE CREDIT.**

12 (a) REPEAL OF EGTRRA SUNSET.—Title IX of the
13 Economic Growth and Tax Relief Reconciliation Act of
14 2001 (relating to sunset of provisions of such Act) shall
15 not apply to section 204 of such Act (relating to dependent
16 care credit).

17 (b) EFFECTIVE DATE.—Subsection (a) shall apply to
18 taxable years beginning after December 31, 2010.

19 **SEC. 105. PERMANENT EXTENSION OF CHILD TAX CREDIT.**

20 (a) REPEAL OF EGTRRA SUNSET.—Title IX of the
21 Economic Growth and Tax Relief Reconciliation Act of
22 2001 (relating to sunset of provisions of such Act) shall
23 not apply to section 201 (relating to modifications to child
24 tax credit) and 203 (relating to refunds disregarded in the
25 administration of federal programs and federally assisted
26 programs) of such Act.

1 (b) EFFECTIVE DATE.—Subsection (a) shall apply to
2 taxable years beginning after December 31, 2010.

3 **SEC. 106. PERMANENT REPEAL OF LIMITATIONS ON PER-**
4 **SONAL EXEMPTIONS AND ITEMIZED DEDUC-**
5 **TIONS.**

6 (a) REPEAL OF EGTRRA SUNSET.—Title IX of the
7 Economic Growth and Tax Relief Reconciliation Act of
8 2001 (relating to sunset of provisions of such Act) shall
9 not apply to section 102 (relating to repeal of phaseout
10 of personal exemptions) and 103 (relating to phaseout of
11 overall limitation on itemized deductions) of such Act.

12 (b) EFFECTIVE DATE.—Subsection (a) shall apply to
13 taxable years beginning after December 31, 2010.

14 **SEC. 107. ELIMINATION OF INDIVIDUAL MISCELLANEOUS**
15 **ITEMIZED DEDUCTIONS.**

16 (a) IN GENERAL.—Subsection (a) of section 67 is
17 amended to read as follows:

18 “(a) GENERAL RULE.—In the case of an individual,
19 miscellaneous deductions shall not be allowed for any tax-
20 able year beginning after December 31, 2010.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) The heading for section 67 is amended by
23 striking “**2-PERCENT FLOOR ON**” and inserting
24 “**TREATMENT OF**”.

1 (2) The item relating to section 67 in the table
2 of sections for part I of subchapter B of chapter 1
3 is amended by striking “2-percent floor on” and in-
4 serting “Treatment of”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2010.

8 **SEC. 108. TREATMENT OF CAPITAL GAINS.**

9 (a) PARTIAL EXCLUSION.—Part III of subchapter B
10 of chapter 1 (relating to items specifically excluded from
11 gross income) is amended by inserting after section 139B
12 the following new section:

13 **“SEC. 139C. CAPITAL GAINS PARTIAL EXCLUSION.**

14 “For any taxable year, gross income shall not in-
15 clude—

16 “(1) 35 percent of so much of any gain from
17 the sale or exchange during such taxable year of
18 capital assets held for more than 6 months but not
19 more than 1 year as does not exceed \$500,000, plus

20 “(2) 35 percent of any long-term capital gain
21 for such taxable year (determined after the applica-
22 tion of section 1202).”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for part III of subchapter B of chapter 1 is amended by

1 inserting after the item relating to section 139B the fol-
 2 lowing new item:

“Sec. 139C. Capital gains partial exclusion.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to taxable years beginning after
 5 December 31, 2010.

6 **SEC. 109. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED**
 7 **BY INDIVIDUALS.**

8 (a) GENERAL RULE.—Part III of subchapter B of
 9 chapter 1 is amended by inserting after section 115 the
 10 following new section:

11 **“SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS RECEIVED**
 12 **BY INDIVIDUALS.**

13 “(a) EXCLUSION FROM GROSS INCOME.—Gross in-
 14 come does not include 35 percent of the qualified dividend
 15 income received during the taxable year by an individual.

16 “(b) QUALIFIED DIVIDEND INCOME.—For purposes
 17 of this subsection—

18 “(1) IN GENERAL.—The term ‘qualified divi-
 19 dend income’ means dividends received with respect
 20 to any share of stock of—

21 “(A) any domestic corporation, or

22 “(B) any foreign corporation but only if
 23 such share of stock is readily tradable on an es-
 24 tablished securities market.

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

3 “(A) any dividend from a corporation
4 which for the taxable year of the corporation in
5 which the distribution is made, or the preceding
6 taxable year, is a corporation exempt from tax
7 under section 501 or 521,

8 “(B) any amount allowed as a deduction
9 under section 591 (relating to deduction for
10 dividends paid by mutual savings banks, etc.),
11 and

12 “(C) any dividend described in section
13 404(k).

14 “(3) EXCLUSION OF DIVIDENDS OF CERTAIN
15 FOREIGN CORPORATIONS.—Such term shall not in-
16 clude any dividend from a foreign corporation which
17 for the taxable year of the corporation in which the
18 distribution was made, or the preceding taxable
19 year, is a foreign personal holding company (as de-
20 fined in section 552), a foreign investment company
21 (as defined in section 1246(b)), or a passive foreign
22 investment company (as defined in section 1297).

23 “(4) COORDINATION WITH SECTION 246(c).—
24 Such term shall not include any dividend on any
25 share of stock—

1 “(A) with respect to which the holding pe-
2 riod requirements of section 246(c) are not met,
3 or

4 “(B) to the extent that the taxpayer is
5 under an obligation (whether pursuant to a
6 short sale or otherwise) to make related pay-
7 ments with respect to positions in substantially
8 similar or related property.

9 “(c) SPECIAL RULES.—

10 “(1) AMOUNTS TAKEN INTO ACCOUNT AS IN-
11 VESTMENT INCOME.—Qualified dividend income
12 shall not include any amount which the taxpayer
13 takes into account as investment income under sec-
14 tion 163(d)(4)(B).

15 “(2) COORDINATION WITH FOREIGN TAX CRED-
16 IT AND DEDUCTION.—No credit shall be allowed
17 under section 901, and no deduction shall be allowed
18 under this chapter, for any taxes paid or accrued
19 with respect to any income excludable under this
20 section.

21 “(3) EXTRAORDINARY DIVIDENDS.—If an indi-
22 vidual receives, with respect to any share of stock,
23 qualified dividend income from 1 or more dividends
24 which are extraordinary dividends (within the mean-
25 ing of section 1059(c)), any loss on the sale or ex-

1 change of such share shall, to the extent of such
2 dividends, be treated as long-term capital loss.

3 “(4) CERTAIN NONRESIDENT ALIENS INELI-
4 GIBLE FOR EXCLUSION.—In the case of a non-
5 resident alien individual, subsection (a) shall apply
6 only in determining the tax imposed for the taxable
7 year by sections 871(b)(1) and 877(b).

8 “(5) EXCLUSION DISREGARDED IN DETER-
9 MINING INCOME FOR CERTAIN PURPOSES.—Sub-
10 section (a) shall not apply for purposes of deter-
11 mining amounts of income under sections 32(i),
12 86(b), 135(b), 137(b), 219(g), 221(b), 222(b),
13 408A(c)(3), 469(i), and 530(c), or subpart A of part
14 IV of subchapter A.

15 “(6) TREATMENT OF DIVIDENDS FROM REGU-
16 LATED INVESTMENT COMPANIES AND REAL ESTATE
17 INVESTMENT TRUSTS.—A dividend from a regulated
18 investment company or real estate investment trust
19 shall be subject to the limitations prescribed in sec-
20 tions 854 and 857.”.

21 (b) EXCLUSION OF DIVIDENDS FROM INVESTMENT
22 INCOME.—Subparagraph (B) of section 163(d)(4) (defin-
23 ing net investment income) is amended by adding at the
24 end the following flush sentence:

1 “Such term shall include qualified dividend income
2 (as defined in section 116(b)) only to the extent the tax-
3 payer elects to treat such income as investment income
4 for purposes of this subsection.”.

5 (c) TREATMENT OF DIVIDENDS FROM REGULATED
6 INVESTMENT COMPANIES.—

7 (1) Subsection (a) of section 854 (relating to
8 dividends received from regulated investment compa-
9 nies) is amended by inserting “section 116 (relating
10 to partial exclusion of dividends received by individ-
11 uals) and” after “For purposes of”.

12 (2) Paragraph (1) of section 854(b) (relating to
13 other dividends) is amended by redesignating sub-
14 paragraph (B) as subparagraph (C) and by inserting
15 after subparagraph (A) the following new subpara-
16 graph:

17 “(B) EXCLUSION UNDER SECTION 116.—

18 “(i) IN GENERAL.—If the aggregate
19 dividends received by a regulated invest-
20 ment company during any taxable year are
21 less than 95 percent of its gross income,
22 then, in computing the exclusion under
23 section 116, rules similar to the rules of
24 subparagraph (A) shall apply.

1 “(ii) GROSS INCOME.—For purposes
2 of clause (i), in the case of 1 or more sales
3 or other dispositions of stock or securities,
4 the term ‘gross income’ includes only the
5 excess of—

6 “(I) the net short-term capital
7 gain from such sales or dispositions,
8 over

9 “(II) the net long-term capital
10 loss from such sales or dispositions.”.

11 (3) Subparagraph (C) of section 854(b)(1), as
12 redesignated by paragraph (2), is amended by strik-
13 ing “subparagraph (A)” and inserting “subpara-
14 graph (A) or (B)”.

15 (4) Paragraph (2) of section 854(b) is amended
16 by inserting “the exclusion under section 116 and”
17 after “for purposes of”.

18 (5) Subsection (b) of section 854 is amended by
19 adding at the end the following new paragraph:

20 “(5) COORDINATION WITH SECTION 116.—For
21 purposes of paragraph (1)(B), an amount shall be
22 treated as a dividend only if the amount is qualified
23 dividend income (within the meaning of section
24 116(b)).”.

1 (d) TREATMENT OF DIVIDENDS RECEIVED FROM
2 REAL ESTATE INVESTMENT TRUSTS.—Section 857(c)
3 (relating to restrictions applicable to dividends received
4 from real estate investment trusts) is amended to read as
5 follows:

6 “(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RE-
7 CEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

8 “(1) SECTION 243.—For purposes of section
9 243 (relating to deductions for dividends received by
10 corporations), a dividend received from a real estate
11 investment trust which meets the requirements of
12 this part shall not be considered a dividend.

13 “(2) SECTION 116.—For purposes of section
14 116 (relating to exclusion of dividends), rules similar
15 to the rules of section 854(b)(1)(B) shall apply to
16 dividends received from a real estate trust which
17 meets the requirements of this part.”.

18 (e) CONFORMING AMENDMENTS.—

19 (1) Subsection (f) of section 301 is amended
20 adding at the end the following new paragraph:

21 “(4) For partial exclusion from gross income of
22 dividends received by individuals, see section 116.”.

23 (2) Paragraph (1) of section 306(a) is amended
24 by adding at the end the following new subpara-
25 graph:

1 “(D) TREATMENT AS DIVIDEND.—For
2 purposes of section 116, any amount treated as
3 ordinary income under this paragraph shall be
4 treated as a dividend received from the corpora-
5 tion.”.

6 (3)(A) Subpart C of part II of subchapter C of
7 chapter 1 (relating to collapsible corporations) is re-
8 pealed.

9 (B)(i) Section 338(h) is amended by striking
10 paragraph (14).

11 (ii) Sections 467(c)(5)(C), 1255(b)(2), and
12 1257(d) are each amended by striking “,
13 341(e)(12),”.

14 (iii) The table of subparts for part II of sub-
15 chapter C of chapter 1 is amended by striking the
16 item related to subpart C.

17 (4) Section 531(a) is amended by inserting “90
18 percent (80 percent in the case of taxable years be-
19 ginning after 2007) of” after “equal to”.

20 (5) Section 541(a) is amended by inserting “90
21 percent (80 percent in the case of taxable years be-
22 ginning after 2007) of” after “equal to”.

23 (6) Section 584(c) is amended by adding at the
24 end the following new flush sentence:

1 “The proportionate share of each participant in the
2 amount of dividends received by the common trust fund
3 and to which section 116 applies shall be considered for
4 purposes of such paragraph as having been received by
5 such participant.”.

6 (7) Section 643(a) is amended by redesignating
7 paragraph (7) as paragraph (8) and by inserting
8 after paragraph (6) the following new paragraph:

9 “(7) EXCLUDED DIVIDENDS.—There shall be
10 included the amount of any dividends excluded from
11 gross income under section 116 (relating to partial
12 exclusion of dividends).”.

13 (8) Paragraph (5) of section 702(a) is amended
14 to read as follows:

15 “(5) dividends with respect to which section
16 116 or part VII of subchapter B applies,”.

17 (f) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2010.

20 **SEC. 110. NONREFUNDABLE PERSONAL CREDIT FOR INTER-**
21 **EST ON STATE AND LOCAL BONDS.**

22 (a) IN GENERAL.—Subpart A of part IV of sub-
23 chapter A of chapter 1 is amended by adding at the end
24 the following new section:

1 **“SEC. 25E. INTEREST ON STATE AND LOCAL BONDS.**

2 “(a) IN GENERAL.—If a taxpayer other than a cor-
3 poration holds a State or local bond on one or more inter-
4 est payment dates of the bond during any taxable year,
5 there shall be allowed as a credit against the tax imposed
6 by this chapter for the taxable year an amount equal to
7 the sum of the credits determined under subsection (b)
8 with respect to such dates.

9 “(b) AMOUNT OF CREDIT.—The amount of the credit
10 determined under this subsection with respect to any in-
11 terest payment date for a State or local bond is 25 percent
12 of the amount of interest payable by the issuer with re-
13 spect to such date.

14 “(c) STATE OR LOCAL BOND.—

15 “(1) IN GENERAL.—For purposes of this sec-
16 tion, the term ‘State or local bond’ means any bond
17 issued as part of an issue if the interest on such
18 bond would (but for this section) be excludable from
19 gross income under section 103.

20 “(2) APPLICABLE RULES.—For purposes of ap-
21 plying paragraph (1)—

22 “(A) for purposes of section 149(b), a
23 State or local bond shall not be treated as fed-
24 erally guaranteed by reason of the credit al-
25 lowed under subsection (a), and

1 “(B) for purposes of section 148, the yield
2 on a State or local bond shall be determined
3 without regard to the credit allowed under sub-
4 section (a).

5 “(d) INTEREST PAYMENT DATE.—For purposes of
6 this section, the term ‘interest payment date’ means any
7 date on which the holder of record of the State or local
8 bond is entitled to a payment of interest under such bond.

9 “(e) SPECIAL RULES.—

10 “(1) INTEREST ON STATE OR LOCAL BONDS IN-
11 CLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME
12 TAX PURPOSES.—For purposes of this title, interest
13 on any State or local bond shall be includible in
14 gross income.

15 “(2) APPLICATION OF CERTAIN RULES.—Rules
16 similar to the rules of subsections (f), (g), (h), and
17 (i) of section 54A shall apply for purposes of the
18 credit allowed under subsection (a).

19 “(f) REGULATIONS.—The Secretary may prescribe
20 such regulations and other guidance as may be necessary
21 or appropriate to carry out this section.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 103(b) is amended by adding at the
24 end the following new paragraph:

1 “(4) INTEREST FOR WHICH CREDIT IS ALLOW-
2 ABLE.—The interest on any State or local bond for
3 which a credit under section 25E is allowable.”.

4 (2) The table of sections for subpart A of part
5 IV of subchapter A of chapter 1 is amended by add-
6 ing at the end the following new item:

“Sec. 25E. Interest on State and local bonds.”.

7 (c) TRANSITIONAL COORDINATION WITH STATE
8 LAW.—Except as otherwise provided by a State after the
9 date of the enactment of this Act, the interest on any
10 State or local bond (as defined in section 25E of the Inter-
11 nal Revenue Code of 1986, as added by this section) and
12 the amount of any credit determined under such section
13 with respect to such bond shall be treated for purposes
14 of the income tax laws of such State as being exempt from
15 Federal income tax.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to obligations issued after Decem-
18 ber 31, 2010.

19 **SEC. 111. RETIREMENT SAVINGS ACCOUNTS.**

20 (a) IN GENERAL.—Section 408A (relating to Roth
21 IRAs) is amended to read as follows:

22 **“SEC. 408A. RETIREMENT SAVINGS ACCOUNTS.**

23 “(a) IN GENERAL.—Except as provided in this sec-
24 tion, a retirement savings account shall be treated for pur-

1 poses of this title in the same manner as an individual
2 retirement plan.

3 “(b) RETIREMENT SAVINGS ACCOUNT.—For pur-
4 poses of this title, the term ‘retirement savings account’
5 means an individual retirement plan (as defined in section
6 7701(a)(37)) which—

7 “(1) is designated (in such manner as the Sec-
8 retary may prescribe) at the time of establishment
9 of the plan as a retirement savings account, and

10 “(2) does not accept any contribution (other
11 than a qualified rollover contribution) which is not
12 in cash.

13 “(c) TREATMENT OF CONTRIBUTIONS.—

14 “(1) CONTRIBUTION LIMIT.—Notwithstanding
15 subsections (a)(1) and (b)(2)(A) of section 408, the
16 aggregate amount of contributions for any taxable
17 year to all retirement savings accounts maintained
18 for the benefit of an individual shall not exceed the
19 lesser of—

20 “(A) \$5,000, or

21 “(B) the amount of compensation includ-
22 ible in the individual’s gross income for such
23 taxable year.

24 “(2) SPECIAL RULE FOR CERTAIN MARRIED IN-
25 DIVIDUALS.—In the case of any individual who files

1 a joint return for the taxable year, the amount taken
2 into account under paragraph (1)(B) shall be in-
3 creased by the excess (if any) of—

4 “(A) the compensation includible in the
5 gross income of such individual’s spouse for the
6 taxable year, over

7 “(B) the aggregate amount of contribu-
8 tions for the taxable year to all retirement sav-
9 ings accounts maintained for the benefit of such
10 spouse.

11 “(3) CONTRIBUTIONS PERMITTED AFTER AGE
12 70½.—Contributions to a retirement savings ac-
13 count may be made even after the individual for
14 whom the account is maintained has attained age
15 70½.

16 “(4) MANDATORY DISTRIBUTION RULES NOT
17 TO APPLY BEFORE DEATH.—Notwithstanding sub-
18 sections (a)(6) and (b)(3) of section 408 (relating to
19 required distributions), the following provisions shall
20 not apply to any retirement savings account:

21 “(A) Section 401(a)(9)(A).

22 “(B) The incidental death benefit require-
23 ments of section 401(a).

24 “(5) ROLLOVER CONTRIBUTIONS.—

1 “(A) IN GENERAL.—No rollover contribu-
2 tion may be made to a retirement savings ac-
3 count unless it is a qualified rollover contribu-
4 tion.

5 “(B) COORDINATION WITH LIMIT.—A
6 qualified rollover contribution shall not be taken
7 into account for purposes of paragraph (1).

8 “(6) ROLLOVERS FROM PLANS WITH TAXABLE
9 DISTRIBUTIONS.—

10 “(A) IN GENERAL.—Notwithstanding sec-
11 tions 402(c), 403(a)(4), 403(b)(8), 408(d)(3),
12 and 457(e)(16), in the case of any contribution
13 to which this paragraph applies—

14 “(i) there shall be included in gross
15 income any amount which would be includ-
16 ible were it not part of a qualified rollover
17 contribution,

18 “(ii) section 72(t) shall not apply, and

19 “(iii) unless the taxpayer elects not to
20 have this clause apply for any taxable year,
21 any amount required to be included in
22 gross income for such taxable year by rea-
23 son of this paragraph for any contribution
24 before January 1, 2011, shall be so in-

1 cluded ratably over the 4-taxable year pe-
2 riod beginning with such taxable year.

3 Any election under clause (iii) for any contribu-
4 tions during a taxable year may not be changed
5 after the due date (including extensions of
6 time) for filing the taxpayer's return for such
7 taxable year.

8 “(B) CONTRIBUTIONS TO WHICH PARA-
9 GRAPH APPLIES.—This paragraph shall apply
10 to any qualified rollover contribution to a retire-
11 ment savings account (other than a rollover
12 contribution from another such account).

13 “(C) CONVERSIONS OF IRAS.—The conver-
14 sion of an individual retirement plan (other
15 than a retirement savings account) to a retire-
16 ment savings account shall be treated for pur-
17 poses of this paragraph as a contribution to
18 which this paragraph applies.

19 “(D) ADDITIONAL REPORTING REQUIRE-
20 MENTS.—Trustees and plan administrators of
21 eligible retirement plans (as defined in section
22 402(c)(8)(B)) and retirement savings accounts
23 shall report such information as the Secretary
24 may require to ensure that amounts required to
25 be included in gross income under subpara-

1 graph (A) are so included. Such reports shall be
2 made at such time and in such form and man-
3 ner as the Secretary may require. The Sec-
4 retary may provide that such information be in-
5 cluded as additional information in reports re-
6 quired under section 408(i) or 6047.

7 “(E) SPECIAL RULES FOR CONTRIBUTIONS
8 TO WHICH A 4-YEAR AVERAGING APPLIES.—In
9 the case of a qualified rollover contribution to
10 which subparagraph (A)(iii) applied, the fol-
11 lowing rules shall apply:

12 “(i) ACCELERATION OF INCLUSION.—

13 “(I) IN GENERAL.—The amount
14 required to be included in gross in-
15 come for each of the first 3 taxable
16 years in the 4-year period under sub-
17 paragraph (A)(iii) shall be increased
18 by the aggregate distributions from
19 retirement savings accounts for such
20 taxable year which are allocable under
21 subsection (d)(3) to the portion of
22 such qualified rollover contribution re-
23 quired to be included in gross income
24 under subparagraph (A)(i).

1 “(II) LIMITATION ON AGGRE-
2 GATE AMOUNT INCLUDED.—The
3 amount required to be included in
4 gross income for any taxable year
5 under subparagraph (A)(iii) shall not
6 exceed the aggregate amount required
7 to be included in gross income under
8 subparagraph (A)(iii) for all taxable
9 years in the 4-year period (without re-
10 gard to subclause (I)) reduced by
11 amounts included for all preceding
12 taxable years.

13 “(ii) DEATH OF DISTRIBUTEE.—

14 “(I) IN GENERAL.—If the indi-
15 vidual required to include amounts in
16 gross income under such subpara-
17 graph dies before all of such amounts
18 are included, all remaining amounts
19 shall be included in gross income for
20 the taxable year which includes the
21 date of death.

22 “(II) SPECIAL RULE FOR SUR-
23 VIVING SPOUSE.—If the spouse of the
24 individual described in subclause (I)
25 acquires the individual’s entire inter-

1 est in any retirement savings account
2 to which such qualified rollover con-
3 tribution is properly allocable, the
4 spouse may elect to treat the remain-
5 ing amounts described in subclause
6 (I) as includible in the spouse's gross
7 income in the taxable years of the
8 spouse ending with or within the tax-
9 able years of such individual in which
10 such amounts would otherwise have
11 been includible. Any such election may
12 not be made or changed after the due
13 date (including extensions of time) for
14 filing the spouse's return for the tax-
15 able year which includes the date of
16 death.

17 “(F) 5-YEAR HOLDING PERIOD RULES.—

18 If—

19 “(i) any portion of a distribution from
20 a retirement savings account is properly al-
21 locable to a qualified rollover contribution
22 with respect to which an amount is includ-
23 ible in gross income under subparagraph
24 (A)(i),

1 “(ii) such distribution is made during
2 the 5-taxable year period beginning with
3 the taxable year for which such contribu-
4 tion was made, and

5 “(iii) such distribution is not de-
6 scribed in clause (i), (ii), or (iii) of sub-
7 section (d)(2)(A),

8 then section 72(t) shall be applied as if such
9 portion were includible in gross income.

10 “(7) TIME WHEN CONTRIBUTIONS MADE.—For
11 purposes of this section, a taxpayer shall be deemed
12 to have made a contribution to a retirement savings
13 account on the last day of the preceding taxable year
14 if the contribution is made on account of such tax-
15 able year and is made not later than the time pre-
16 scribed by law for filing the return for such taxable
17 year (not including extensions thereof).

18 “(8) COST-OF-LIVING ADJUSTMENT.—

19 “(A) IN GENERAL.—In the case of any
20 taxable year beginning in a calendar year after
21 2011, the \$5,000 amount under paragraph
22 (1)(A) shall be increased by an amount equal
23 to—

24 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
2 termined under section 1(f)(3) for the cal-
3 endar year in which the taxable year be-
4 gins, determined by substituting ‘calendar
5 year 2010’ for ‘calendar year 1992’ in sub-
6 paragraph (B) thereof.

7 “(B) ROUNDING RULES.—If any amount
8 after adjustment under subparagraph (A) is not
9 a multiple of \$500, such amount shall be
10 rounded to the next lower multiple of \$500.

11 “(d) DISTRIBUTION RULES.—For purposes of this
12 title—

13 “(1) EXCLUSION.—Any qualified distribution
14 from a retirement savings account shall not be in-
15 cludible in gross income.

16 “(2) QUALIFIED DISTRIBUTION.—For purposes
17 of this subsection—

18 “(A) IN GENERAL.—The term ‘qualified
19 distribution’ means any payment or distribu-
20 tion—

21 “(i) made on or after the date on
22 which the individual attains age 58,

23 “(ii) made to a beneficiary (or to the
24 estate of the individual) on or after the
25 death of the individual,

1 “(iii) attributable to the individual’s
2 being disabled (within the meaning of sec-
3 tion 72(m)(7)), or

4 “(iv) to which section 72(t)(2)(F) ap-
5 plies (if such payment or distribution is
6 made before January 1, 2014).

7 “(B) DISTRIBUTIONS OF EXCESS CON-
8 TRIBUTIONS AND EARNINGS.—The term ‘quali-
9 fied distribution’ shall not include any distribu-
10 tion of any contribution described in section
11 408(d)(4) and any net income allocable to the
12 contribution.

13 “(3) ORDERING RULES.—For purposes of ap-
14 plying this section and section 72 to any distribution
15 from a retirement savings account, such distribution
16 shall be treated as made—

17 “(A) from contributions to the extent that
18 the amount of such distribution, when added to
19 all previous distributions from the retirement
20 savings account, does not exceed the aggregate
21 contributions to the retirement savings account,
22 and

23 “(B) from such contributions in the fol-
24 lowing order:

1 “(i) Contributions other than qualified
2 rollover contributions with respect to which
3 an amount is includible in gross income
4 under subsection (c)(6)(A)(i).

5 “(ii) Qualified rollover contributions
6 with respect to which an amount is includ-
7 ible in gross income under subsection
8 (c)(6)(A)(i) on a first-in, first-out basis.

9 Any distribution allocated to a qualified rollover con-
10 tribution under subparagraph (B)(ii) shall be allo-
11 cated first to the portion of such contribution re-
12 quired to be included in gross income.

13 “(4) AGGREGATION RULES.—Section 408(d)(2)
14 shall be applied separately with respect to retirement
15 savings accounts and other individual retirement
16 plans.

17 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—

18 “(1) IN GENERAL.—For purposes of this sec-
19 tion, the term ‘qualified rollover contribution’
20 means—

21 “(A) a rollover contribution to a retirement
22 savings account of an individual from another
23 such account of such individual or such individ-
24 ual’s spouse, or from an individual retirement
25 plan of such individual, but only if such rollover

1 contribution meets the requirements of section
2 408(d)(3), and

3 “(B) a rollover contribution described in
4 section 402(e), 402A(c)(3)(A), 403(a)(4),
5 403(b)(8), or 457(e)(16).

6 “(2) COORDINATION WITH LIMITATION ON IRA
7 ROLLOVERS.—For purposes of section 408(d)(3)(B),
8 there shall be disregarded any qualified rollover con-
9 tribution from an individual retirement plan (other
10 than a retirement savings account) to a retirement
11 savings account.

12 “(f) INDIVIDUAL RETIREMENT PLAN.—For purposes
13 of this section—

14 “(1) a simplified employee pension or a simple
15 retirement account may not be designated as a re-
16 tirement savings account, and

17 “(2) contributions to any such pension or ac-
18 count shall not be taken into account for purposes
19 of subsection (c)(1).

20 “(g) COMPENSATION.—For purposes of this section,
21 the term ‘compensation’ includes earned income (as de-
22 fined in section 401(c)(2)). Such term does not include
23 any amount received as a pension or annuity and does not
24 include any amount received as deferred compensation.
25 Such term shall include any amount includible in the indi-

1 individual's gross income under section 71 with respect to a
2 divorce or separation instrument described in section
3 71(b)(2)(A). For purposes of this subsection, section
4 401(c)(2) shall be applied as if the term trade or business
5 for purposes of section 1402 included service described in
6 section 1402(c)(6).”.

7 (b) ROTH IRAS TREATED AS RETIREMENT SAVINGS
8 ACCOUNTS.—In the case of any taxable year beginning
9 after December 31, 2010, any Roth IRA (as defined in
10 section 408A(b) of the Internal Revenue Code of 1986,
11 as in effect on the day before the date of the enactment
12 of this Act) shall be treated for purposes of such Code
13 as having been designated at the time of the establishment
14 of the plan as a retirement savings account under section
15 408A(b) of such Code (as amended by this section).

16 (c) CONTRIBUTIONS TO OTHER INDIVIDUAL RETIRE-
17 MENT PLANS PROHIBITED.—

18 (1) INDIVIDUAL RETIREMENT ACCOUNTS.—
19 Paragraph (1) of section 408(a) is amended to read
20 as follows:

21 “(1) Except in the case of a simplified employee
22 pension, a simple retirement account, or a rollover
23 contribution described in subsection (d)(3) or in sec-
24 tion 402(c), 403(a)(4), 403(b)(8), or 457(e)(16), no
25 contribution will be accepted on behalf of any indi-

1 vidual for any taxable year beginning after Decem-
 2 ber 31, 2010. In the case of any simplified employee
 3 pension or simple retirement account, no contribu-
 4 tion will be accepted unless it is in cash and con-
 5 tributions will not be accepted for the taxable year
 6 on behalf of any individual in excess of—

7 “(A) in the case of a simplified employee
 8 pension, the amount of the limitation in effect
 9 under section 415(c)(1)(A), and

10 “(B) in the case of a simple retirement ac-
 11 count, the sum of the dollar amount in effect
 12 under subsection (p)(2)(A)(ii) and the employer
 13 contribution required under subparagraph
 14 (A)(iii) or (B)(i) of subsection (p)(2).”.

15 (2) INDIVIDUAL RETIREMENT ANNUITIES.—

16 Paragraph (2) of section 408(b) is amended—

17 (A) by redesignating subparagraphs (A),
 18 (B), and (C) as subparagraphs (B), (C), and
 19 (D), respectively, and by inserting before sub-
 20 paragraph (B), as so redesignated, the following
 21 new subparagraph:

22 “(A) except in the case of a simplified em-
 23 ployee pension, a simple retirement account, or
 24 a rollover contribution described in subsection
 25 (d)(3) or in section 402(c), 403(a)(4),

1 403(b)(8), or 457(e)(16), a premium shall not
2 be accepted on behalf of any individual for any
3 taxable year beginning after December 31,
4 2010,” and

5 (B) by amending subparagraph (C), as re-
6 designated by subparagraph (A), to read as fol-
7 lows:

8 “(C) the annual premium on behalf of any
9 individual will not exceed—

10 “(i) in the case of a simplified em-
11 ployee pension, the amount of the limita-
12 tion in effect under section 415(c)(1)(A),
13 and

14 “(ii) in the case of a simple retire-
15 ment account, the sum of the dollar
16 amount in effect under subsection
17 (p)(2)(A)(ii) and the employer contribution
18 required under subparagraph (A)(iii) or
19 (B)(i) of subsection (p)(2), and”.

20 (d) CONFORMING AMENDMENTS.—

21 (1)(A) Section 219 is amended to read as fol-
22 lows:

1 **“SEC. 219. CONTRIBUTIONS TO CERTAIN RETIREMENT**
2 **PLANS ALLOWING ONLY EMPLOYEE CON-**
3 **TRIBUTIONS.**

4 “(a) ALLOWANCE OF DEDUCTION.—In the case of an
5 individual, there shall be allowed as a deduction the
6 amount contributed on behalf of such individual to a plan
7 described in section 501(c)(18).

8 “(b) MAXIMUM AMOUNT OF DEDUCTION.—The
9 amount allowable as a deduction under subsection (a) to
10 any individual for any taxable year shall not exceed the
11 lesser of—

12 “(1) \$7,000, or

13 “(2) an amount equal to 25 percent of the com-
14 pensation (as defined in section 415(c)(3)) includible
15 in the individual’s gross income for such taxable
16 year.

17 “(c) BENEFICIARY MUST BE UNDER AGE 70½.—
18 No deduction shall be allowed under this section with re-
19 spect to any contribution on behalf of an individual if such
20 individual has attained age 70½ before the close of such
21 individual’s taxable year for which the contribution was
22 made.

23 “(d) SPECIAL RULES.—

24 “(1) MARRIED INDIVIDUALS.—The maximum
25 deduction under subsection (b) shall be computed
26 separately for each individual, and this section shall

1 be applied without regard to any community prop-
2 erty laws.

3 “(2) REPORTS.—The Secretary shall prescribe
4 regulations which prescribe the time and the manner
5 in which reports to the Secretary and plan partici-
6 pants shall be made by the plan administrator of a
7 qualified employer or government plan receiving
8 qualified voluntary employee contributions.

9 “(e) CROSS REFERENCE.—For failure to provide re-
10 quired reports, see section 6652(g).”.

11 (B) Section 25B(d) is amended—

12 (i) in paragraph (1)(A), by striking “(as
13 defined in section 219(e))”, and

14 (ii) by adding at the end the following new
15 paragraph:

16 “(3) QUALIFIED RETIREMENT CONTRIBU-
17 TION.—The term ‘qualified retirement contribution’
18 means—

19 “(A) any amount paid in cash for the tax-
20 able year by or on behalf of an individual to an
21 individual retirement plan for such individual’s
22 benefit, and

23 “(B) any amount contributed on behalf of
24 any individual to a plan described in section
25 501(c)(18).”.

1 (C) Section 86(f)(3) is amended by striking
2 “section 219(f)(1)” and inserting “section 408A(g)”.

3 (D) Section 132(m)(3) is amended by inserting
4 “(as in effect on the day before the date of the en-
5 actment of the Retirement Savings Account Act)”
6 after “section 219(g)(5)”.

7 (E) Subparagraphs (A), (B), and (C) of section
8 220(d)(4) are each amended by inserting “, as in ef-
9 fect on the day before the date of the enactment of
10 the Retirement Savings Account Act” at the end.

11 (F) Section 408(b) is amended in the last sen-
12 tence by striking “section 219(b)(1)(A)” and insert-
13 ing “paragraph (2)(C)”.

14 (G) Section 408(p)(2)(D)(ii) is amended by in-
15 serting “(as in effect on the day before the date of
16 the enactment of the Retirement Savings Account
17 Act)” after “section 219(g)(5)”.

18 (H) Section 409A(d)(2) is amended by insert-
19 ing “(as in effect on the day before the date of the
20 enactment of the Retirement Savings Account Act)”
21 after “subparagraph (A)(iii)”.

22 (I) Section 501(c)(18)(D)(i) is amended by
23 striking “section 219(b)(3)” and inserting “section
24 219(b)”.

1 (J) Section 6652(g) is amended by striking
2 “section 219(f)(4)” and inserting “section
3 219(d)(2)”.

4 (K) The table of sections for part VII of sub-
5 chapter B of chapter 1 is amended by striking the
6 item relating to section 219 and inserting the fol-
7 lowing new item:

 “Sec. 219. Contributions to certain retirement plans allowing only employee
 contributions.”.

8 (2)(A) Section 408(d)(4)(B) is amended to read
9 as follows:

10 “(B) no amount is excludable from gross
11 income under subsection (h) or (k) of section
12 402 with respect to such contribution, and”.

13 (B) Section 408(d)(5)(A) is amended to read as
14 follows:

15 “(A) IN GENERAL.—In the case of any in-
16 dividual, if the aggregate contributions (other
17 than rollover contributions) paid for any taxable
18 year to an individual retirement account or for
19 an individual retirement annuity do not exceed
20 the dollar amount in effect under subsection
21 (a)(1) or (b)(2)(C), as the case may be, para-
22 graph (1) shall not apply to the distribution of
23 any such contribution to the extent that such
24 contribution exceeds the amount which is ex-

1 cludable from gross income under subsection
2 (h) or (k) of section 402, as the case may be,
3 for the taxable year for which the contribution
4 was paid—

5 “(i) if such distribution is received
6 after the date described in paragraph (4),

7 “(ii) but only to the extent that such
8 excess contribution has not been excluded
9 from gross income under subsection (h) or
10 (k) of section 402.”.

11 (C) Section 408(d)(5) is amended by striking
12 the last sentence.

13 (D) Section 408(d)(7) is amended to read as
14 follows:

15 “(7) CERTAIN TRANSFERS FROM SIMPLIFIED
16 EMPLOYEE PENSIONS PROHIBITED UNTIL DEFERRAL
17 TEST MET.—Notwithstanding any other provision of
18 this subsection or section 72(t), paragraph (1) and
19 section 72(t)(1) shall apply to the transfer or dis-
20 tribution from a simplified employee pension of any
21 contribution under a salary reduction arrangement
22 described in subsection (k)(6) (or any income allo-
23 cable thereto) before a determination as to whether
24 the requirements of subsection (k)(6)(A)(iii) are met
25 with respect to such contribution.”.

1 (E) Section 408 is amended by striking sub-
2 section (j).

3 (F)(i) Section 408 is amended by striking sub-
4 section (o).

5 (ii) Section 6693 is amended by striking sub-
6 section (b) and by redesignating subsections (c) and
7 (d) as subsections (b) and (c), respectively.

8 (G) Section 408(p) is amended by striking
9 paragraph (8) and by redesignating paragraphs (9)
10 and (10) as paragraphs (8) and (9), respectively.

11 (3)(A) Section 4973(a)(1) is amended to read
12 as follows:

13 “(1) an individual retirement plan,”.

14 (B) Section 4973(b) is amended to read as fol-
15 lows:

16 “(b) EXCESS CONTRIBUTIONS TO SIMPLIFIED EM-
17 PLOYEE PENSIONS AND SIMPLE RETIREMENT AC-
18 COUNTS.—For purposes of this section, in the case of sim-
19 plified employee pensions or simple retirement accounts,
20 the term ‘excess contributions’ means the sum of—

21 “(1) the excess (if any) of—

22 “(A) the amount contributed for the tax-
23 able year to the pension or account, over

1 “(B) the amount applicable to the pension
2 or account under subsection (a)(1) or (b)(2) of
3 section 408, and

4 “(2) the amount determined under this sub-
5 section for the preceding taxable year, reduced by
6 the sum of—

7 “(A) the distributions out of the account
8 for the taxable year which were included in the
9 gross income of the payee under section
10 408(d)(1),

11 “(B) the distributions out of the account
12 for the taxable year to which section 408(d)(5)
13 applies, and

14 “(C) the excess (if any) of the maximum
15 amount excludable from gross income for the
16 taxable year under subsection (h) or (k) of sec-
17 tion 402 over the amount contributed to the
18 pension or account for the taxable year.

19 For purposes of this subsection, any contribution which
20 is distributed from a simplified employee pension or simple
21 retirement account in a distribution to which section
22 408(d)(4) applies shall be treated as an amount not con-
23 tributed.”.

24 (C) Section 4973 is amended by adding at the
25 end the following new subsection:

1 “(h) EXCESS CONTRIBUTIONS TO CERTAIN INDI-
 2 VIDUAL RETIREMENT PLANS.—For purposes of this sec-
 3 tion, in the case of individual retirement plans (other than
 4 retirement savings accounts, simplified employee pensions,
 5 and simple retirement accounts), the term ‘excess con-
 6 tribution’ means the sum of—

7 “(1) the aggregate amount contributed for the
 8 taxable year to the individual retirement plans, and

9 “(2) the amount determined under this sub-
 10 section for the preceding taxable year, reduced by
 11 the sum of—

12 “(A) the distributions out of the plans
 13 which were included in gross income under sec-
 14 tion 408(d)(1), and

15 “(B) the distributions out of the plans for
 16 the taxable year to which section 408(d)(5) ap-
 17 plies.

18 For purposes of this subsection, any contribution which
 19 is distributed from the plan in a distribution to which sec-
 20 tion 408(d)(4) applies shall be treated as an amount not
 21 contributed.”.

22 (4)(A) Sections 402(c)(8)(B),
 23 402A(c)(3)(A)(ii), 1361(c)(2)(A), 3405(e)(1)(B),
 24 and 4973(f) are each amended by striking “Roth

1 IRA” each place it appears and inserting “retire-
2 ment savings account”.

3 (B) Section 4973(f)(1)(A) is amended by strik-
4 ing “Roth IRAs” and inserting “retirement savings
5 accounts”.

6 (C) Paragraphs (1)(B) and (2)(B) of section
7 4973(f) are each amended by striking “sections
8 408A(c)(2) and (c)(3)” and inserting “section
9 408A(c)(1)”.

10 (D) Subsection (f) of section 4973 is amended
11 in the heading by striking “**ROTH IRAS**” and insert-
12 ing “**RETIREMENT SAVINGS ACCOUNTS**”.

13 (e) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2010.

16 **SEC. 112. LIFETIME SAVINGS ACCOUNTS.**

17 (a) IN GENERAL.—Subchapter F of Chapter 1 (relat-
18 ing to exempt organizations) is amended by adding at the
19 end the following new part:

20 **“PART IX—LIFETIME SAVINGS ACCOUNTS**

21 **“SEC. 530A. LIFETIME SAVINGS ACCOUNTS.**

22 “(a) GENERAL RULE.—A Lifetime Savings Account
23 shall be exempt from taxation under this subtitle. Not-
24 withstanding the preceding sentence, such account shall
25 be subject to the taxes imposed by section 511 (relating

1 to imposition of tax on unrelated business income of chari-
2 table organizations).

3 “(b) LIFETIME SAVINGS ACCOUNT.—For purposes of
4 this section, the term ‘Lifetime Savings Account’ means
5 a trust created or organized in the United States for the
6 exclusive benefit of an individual or his beneficiaries and
7 which is designated (in such manner as the Secretary shall
8 prescribe) at the time of the establishment of the trust
9 as a Lifetime Savings Account, but only if the written gov-
10 erning instrument creating the trust meets the following
11 requirements:

12 “(1) Except in the case of a qualified rollover
13 contribution described in subsection (d)—

14 “(A) no contribution will be accepted un-
15 less it is in cash, and

16 “(B) contributions will not be accepted for
17 the calendar year in excess of the contribution
18 limit specified in subsection (e)(1).

19 “(2) The trustee is a bank (as defined in sec-
20 tion 408(n)) or another person who demonstrates to
21 the satisfaction of the Secretary that the manner in
22 which that person will administer the trust will be
23 consistent with the requirements of this section or
24 who has so demonstrated with respect to any indi-
25 vidual retirement plan.

1 “(3) No part of the trust assets will be invested
2 in life insurance contracts.

3 “(4) The interest of an individual in the bal-
4 ance of his account is nonforfeitable.

5 “(5) The assets of the trust shall not be com-
6 mingled with other property except in a common
7 trust fund or common investment fund.

8 “(c) TREATMENT OF CONTRIBUTIONS AND DIS-
9 TRIBUTIONS.—

10 “(1) CONTRIBUTION LIMIT.—

11 “(A) IN GENERAL.—The aggregate
12 amount of contributions (other than qualified
13 rollover contributions described in subsection
14 (d)) for any calendar year to all Lifetime Sav-
15 ings Accounts maintained for the benefit of an
16 individual shall not exceed \$2,000.

17 “(B) COST-OF-LIVING ADJUSTMENT.—

18 “(i) IN GENERAL.—In the case of any
19 calendar year after 2011, the \$2,000
20 amount under subparagraph (A) shall be
21 increased by an amount equal to—

22 “(I) such dollar amount, multi-
23 plied by

24 “(II) the cost-of-living adjust-
25 ment determined under section 1(f)(3)

1 for the calendar year, determined by
2 substituting ‘calendar year 2010’ for
3 ‘calendar year 1992’ in subparagraph
4 (B) thereof.

5 “(ii) ROUNDING RULES.—If any
6 amount after adjustment under clause (i)
7 is not a multiple of \$500, such amount
8 shall be rounded to the next lower multiple
9 of \$500.

10 “(2) DISTRIBUTIONS.—Any distribution from a
11 Lifetime Savings Account shall not be includible in
12 gross income.

13 “(d) QUALIFIED ROLLOVER CONTRIBUTION.—For
14 purposes of this section, the term ‘qualified rollover con-
15 tribution’ means a contribution to a Lifetime Savings Ac-
16 count—

17 “(1) from another such account of the same
18 beneficiary, but only if such amount is contributed
19 not later than the 60th day after the distribution
20 from such other account,

21 “(2) from a Lifetime Savings Account of a
22 spouse of the beneficiary of the account to which the
23 contribution is made, but only if such amount is
24 contributed not later than the 60th day after the
25 distribution from such other account, and

1 “(3) before January 1, 2011, from—

2 “(A) a qualified tuition program pursuant
3 to section 529(c)(3)(E), or

4 “(B) a Coverdell education savings account
5 pursuant to section 530(d)(9).

6 “(e) LOSS OF TAXATION EXEMPTION OF ACCOUNT
7 WHERE BENEFICIARY ENGAGES IN PROHIBITED TRANS-
8 ACTION.—Rules similar to the rules of paragraph (2) of
9 section 408(e) shall apply to any Lifetime Savings Ac-
10 count.

11 “(f) CUSTODIAL ACCOUNTS.—For purposes of this
12 section, a custodial account or an annuity contract issued
13 by an insurance company qualified to do business in a
14 State shall be treated as a trust under this section if—

15 “(1) the custodial account or annuity contract
16 would, except for the fact that it is not a trust, con-
17 stitute a trust which meets the requirements of sub-
18 section (b), and

19 “(2) in the case of a custodial account, the as-
20 sets of such account are held by a bank (as defined
21 in section 408(n)) or another person who dem-
22 onstrates, to the satisfaction of the Secretary, that
23 the manner in which he will administer the account
24 will be consistent with the requirements of this sec-
25 tion.

1 For purposes of this title, in the case of a custodial ac-
2 count or annuity contract treated as a trust by reason of
3 the preceding sentence, the person holding the assets of
4 such account or holding such annuity contract shall be
5 treated as the trustee thereof.

6 “(g) REPORTS.—The trustee of a Lifetime Savings
7 Account shall make such reports regarding such account
8 to the Secretary and to the beneficiary of the account with
9 respect to contributions, distributions, and such other
10 matters as the Secretary may require. The reports re-
11 quired by this subsection shall be filed at such time and
12 in such manner and furnished to such individuals at such
13 time and in such manner as may be required.”.

14 (b) TAX ON EXCESS CONTRIBUTIONS.—

15 (1) IN GENERAL.—Subsection (a) of section
16 4973 (relating to tax on excess contributions to cer-
17 tain tax-favored accounts and annuities) is amended
18 by striking “or” at the end of paragraph (4), by in-
19 serting “or” at the end of paragraph (5), and by in-
20 serting after paragraph (5) the following new para-
21 graph:

22 “(6) a Lifetime Savings Account (as defined in
23 section 530A),”.

1 (2) EXCESS CONTRIBUTION.—Section 4973 is
2 amended by adding at the end the following new
3 subsection:

4 “(h) EXCESS CONTRIBUTIONS TO LIFETIME SAVINGS
5 ACCOUNTS.—For purposes of this section—

6 “(1) IN GENERAL.—In the case of Lifetime
7 Savings Accounts (within the meaning of section
8 530A), the term ‘excess contributions’ means the
9 sum of—

10 “(A) the amount by which the amount con-
11 tributed for the calendar year to such accounts
12 (other than qualified rollover contributions (as
13 defined in section 530A(d))) exceeds the con-
14 tribution limit under section 530A(c)(1), and

15 “(B) the amount determined under this
16 subsection for the preceding calendar year, re-
17 duced by the excess (if any) of the maximum
18 amount allowable as a contribution under sec-
19 tion 530A(c)(1) for the calendar year over the
20 amount contributed to the accounts for the cal-
21 endar year.

22 “(2) SPECIAL RULE.—A contribution shall not
23 be taken into account under paragraph (1) if such
24 contribution (together with the amount of net in-
25 come attributable to such contribution) is returned

1 to the beneficiary before July 1 of the year following
2 the year in which the contribution is made.”.

3 (c) FAILURE TO PROVIDE REPORTS ON LIFETIME
4 SAVINGS ACCOUNTS.—Paragraph (2) of section 6693(a)
5 (relating to failure to provide reports on individual retire-
6 ment accounts or annuities) is amended by striking “and”
7 at the end of subparagraph (D), by striking the period
8 at the end of subparagraph (E) and inserting “, and”,
9 and by adding at the end the following new subparagraph:

10 “(F) section 530A(g) (relating to Lifetime
11 Savings Accounts).”.

12 (d) ROLLOVERS FROM CERTAIN OTHER TAX-FREE
13 ACCOUNTS.—

14 (1) QUALIFIED STATE TUITION PLANS.—Para-
15 graph (3) of section 529(c) (relating to distribu-
16 tions) is amended by adding at the end the following
17 new subparagraph:

18 “(E) ROLLOVERS TO LIFETIME SAVINGS
19 ACCOUNTS.—

20 “(i) IN GENERAL.—Subparagraph (A)
21 shall not apply to the qualified portion of
22 any distribution which, before January 1,
23 2012, and within 60 days of such distribu-
24 tion, is transferred to a Lifetime Savings
25 Account (within the meaning of section

1 530A) of the designated beneficiary. This
2 subparagraph shall only apply to distribu-
3 tions in accordance with the previous sen-
4 tence from an account which was in exist-
5 ence with respect to such designated bene-
6 ficiary on December 31, 2009.

7 “(ii) QUALIFIED PORTION.—For pur-
8 poses of this subparagraph, the term
9 ‘qualified portion’ means the amount equal
10 to the sum of—

11 “(I) the lesser of \$50,000 or the
12 amount which is in the account of the
13 designated beneficiary on December
14 31, 2009,

15 “(II) any contributions to such
16 account for the taxable year beginning
17 after December 31, 2009, and before
18 January 1, 2011, and

19 “(III) any earnings of such ac-
20 count for such year.

21 “(iii) LIMITATION.—The sum of the
22 amounts taken into account under clause
23 (ii)(II) with respect to all accounts of the
24 designated beneficiary plus any amounts
25 with respect to such designated beneficiary

1 taken into account under section
2 530(d)(9)(B)(ii) shall not exceed the sum
3 of \$2,000 plus the earnings attributable to
4 such amounts.”.

5 (2) COVERDELL EDUCATION SAVINGS AC-
6 COUNTS.—Subsection (d) of section 530 (relating to
7 tax treatment of distributions) is amended by insert-
8 ing at the end the following new paragraph:

9 “(9) ROLLOVERS TO LIFETIME SAVINGS AC-
10 COUNTS.—

11 “(A) IN GENERAL.—Paragraph (1) shall
12 not apply to the qualified portion of any
13 amount paid or distributed from a Coverdell
14 education savings account to the extent that the
15 amount received is paid, before January 1,
16 2012, and not later than the 60th day after the
17 date of such payment or distribution, into a
18 Lifetime Savings Account (within the meaning
19 of section 530A) for the benefit of the same
20 beneficiary. This paragraph shall only apply to
21 amounts paid or distributed in accordance with
22 the preceding sentence from an account which
23 was in existence with respect to such bene-
24 ficiary on December 31, 2009.

1 “(B) QUALIFIED PORTION.—For purposes
2 of this paragraph, the term ‘qualified portion’
3 means the amount equal to the sum of—

4 “(i) the amount which is in the ac-
5 count of the beneficiary on December 31,
6 2009,

7 “(ii) any contributions to such ac-
8 count for the taxable year beginning after
9 December 31, 2009, and before January 1,
10 2011, and

11 “(iii) any earnings of such account for
12 such year.

13 “(C) LIMITATION.—The sum of the
14 amounts taken into account under subpara-
15 graph (B)(ii) with respect to all accounts of the
16 beneficiary plus any amounts with respect to
17 such beneficiary taken into account under sec-
18 tion 529(c)(3)(E)(ii)(II) shall not exceed the
19 sum of \$2,000 plus the earnings attributable to
20 such amounts.”.

21 (e) CONFORMING AMENDMENT.—The table of parts
22 for subchapter F of chapter 1 is amended by adding at
23 the end the following new item:

 “PART IX. LIFETIME SAVINGS ACCOUNTS”.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2010.

4 **SEC. 113. CONSOLIDATION OF TAX CREDITS AND DEDUC-**
5 **TIONS FOR EDUCATION EXPENSES.**

6 (a) IN GENERAL.—Section 25A of the Internal Rev-
7 enue Code of 1986 (relating to Hope and Lifetime Learn-
8 ing Credits) is amended to read as follows:

9 **“SEC. 25A. QUALIFIED TUITION AND RELATED EXPENSES**
10 **CREDIT.**

11 **“(a) ALLOWANCE OF CREDIT.—**

12 **“(1) IN GENERAL.—**In the case of any eligible
13 individual for whom an election is in effect under
14 this section, there shall be allowed as a credit
15 against the tax imposed by this chapter for the tax-
16 able year an amount equal to the applicable percent-
17 age of so much of the qualified tuition and related
18 expenses paid by the taxpayer during the taxable
19 year (for education furnished to the eligible indi-
20 vidual during any academic period beginning in such
21 taxable year) as does not exceed \$10,000.

22 **“(2) APPLICABLE PERCENTAGE.—**For purposes
23 of subsection (a), the applicable percentage is—

1 “(A) for the first 2 taxable years such an
2 election is in effect with respect to an eligible
3 individual, 20 percent,

4 “(B) for the next 2 such taxable years, 15
5 percent, and

6 “(C) notwithstanding subparagraph (A),
7 for any taxable year such eligible individual at-
8 tends or is enrolled in only one academic period,
9 15 percent.

10 “(b) LIMITATIONS.—

11 “(1) MODIFIED ADJUSTED GROSS INCOME LIM-
12 ITATION.—

13 “(A) IN GENERAL.—The amount which
14 would (but for this paragraph) be taken into ac-
15 count under subsection (a) for the taxable year
16 shall be reduced (but not below zero) by the
17 amount determined under paragraph (2).

18 “(B) AMOUNT OF REDUCTION.—The
19 amount determined under this paragraph is the
20 amount which bears the same ratio to the
21 amount which would be so taken into account
22 as—

23 “(i) the excess of—

1 “(I) the taxpayer’s modified ad-
2 justed gross income for such taxable
3 year, over

4 “(II) \$50,000 (twice such
5 amount in the case of a joint return),
6 bears to

7 “(ii) \$40,000 (twice such amount in
8 the case of a joint return).

9 “(C) MODIFIED ADJUSTED GROSS IN-
10 COME.—The term ‘modified adjusted gross in-
11 come’ means the adjusted gross income of the
12 taxpayer for the taxable year increased by any
13 amount excluded from gross income under sec-
14 tion 911, 931, or 933.

15 “(2) CREDIT ALLOWED FOR ONLY 4 TAXABLE
16 YEARS.—An election to have this section apply with
17 respect to any eligible individual may not be made
18 for any taxable year if such an election (by the tax-
19 payer or any other individual) is in effect with re-
20 spect to such individual for any 4 prior taxable
21 years.

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

23 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
24 individual’ means any individual described in para-
25 graph (2).

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

3 “(A) IN GENERAL.—The term ‘qualified
4 tuition and related expenses’ means tuition and
5 fees required for the enrollment or attendance
6 of—

7 “(i) taxpayer,

8 “(ii) the taxpayer’s spouse, or

9 “(iii) any dependent of the taxpayer
10 with respect to whom the taxpayer is al-
11 lowed a deduction under section 151,
12 at an eligible educational institution for courses
13 of instruction of such individual at such institu-
14 tion.

15 “(B) STUDENT LOAN INTEREST.—

16 “(i) IN GENERAL.—Such term shall
17 include so much of the interest paid on any
18 qualified education loan of such individual
19 as does not exceed \$2,500, reduced by any
20 amount taken into account under this sec-
21 tion for any preceding taxable year.

22 “(ii) QUALIFIED EDUCATION LOAN.—
23 For purposes of clause (i), the term ‘quali-
24 fied education loan’ means any indebted-

1 ness incurred by the taxpayer solely to pay
2 qualified tuition and related expenses—

3 “(I) which are incurred on behalf
4 of an eligible individual as of the time
5 the indebtedness was incurred,

6 “(II) which are paid or incurred
7 within a reasonable period of time be-
8 fore or after the indebtedness is in-
9 curred, and

10 “(III) which are attributable to
11 education furnished during a period
12 during which the recipient was an eli-
13 gible individual.

14 Such term includes indebtedness used to
15 refinance indebtedness which qualifies as a
16 qualified education loan. Such term shall
17 not include any indebtedness owed to a
18 person who is related (within the meaning
19 of section 267(b) or 707(b)(1)) to the eligi-
20 ble individual or to any person by reason
21 of a loan under any qualified employer
22 plan (as defined in section 72(p)(4)) or
23 under any contract referred to in section
24 72(p)(5).

1 “(C) BOOKS.—Such term shall include
2 books required for such individual’s academic
3 courses of instruction at the eligible educational
4 institution.

5 “(D) EXCEPTION FOR EDUCATION INVOLV-
6 ING SPORTS, ETC.—Such term does not include
7 expenses with respect to any course or other
8 education involving sports, games, or hobbies,
9 unless such course or other education is part of
10 the individual’s degree program.

11 “(E) EXCEPTION FOR NONACADEMIC
12 FEES.—Such term does not include student ac-
13 tivity fees, athletic fees, insurance expenses, or
14 other expenses unrelated to an individual’s aca-
15 demic course of instruction.

16 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—
17 The term ‘eligible educational institution’ means an
18 institution—

19 “(A) which is described in section 481 of
20 the Higher Education Act of 1965, as in effect
21 on the date of the enactment of the Taxpayer
22 Relief Act of 1997, and

23 “(B) which is eligible to participate in a
24 program under title IV of the Higher Education
25 Act of 1965.

1 “(d) SPECIAL RULES.—

2 “(1) IDENTIFICATION REQUIREMENT.—No
3 credit shall be allowed under subsection (a) to a tax-
4 payer with respect to an eligible student unless the
5 taxpayer includes the name and taxpayer identifica-
6 tion number of such student on the return of tax for
7 the taxable year.

8 “(2) ADJUSTMENT FOR CERTAIN SCHOLAR-
9 SHIPS.—The amount of qualified tuition and related
10 expenses otherwise taken into account under sub-
11 section (a) with respect to an individual for an aca-
12 demic period shall be reduced (before the application
13 of subsections (a) and (b)) by the sum of any
14 amounts paid for the benefit of such individual
15 which are allocable to such period as—

16 “(A) a qualified scholarship which is ex-
17 cludable from gross income under section 117,

18 “(B) an educational assistance allowance
19 under chapter 30, 31, 32, 34, or 35 of title 38,
20 United States Code, or under chapter 1606 of
21 title 10, United States Code, and

22 “(C) a payment (other than a gift, be-
23 quest, devise, or inheritance within the meaning
24 of section 102(a)) for such student’s edu-
25 cational expenses, or attributable to such indi-

1 vidual’s enrollment at an eligible educational in-
2 stitution, which is excludable from gross income
3 under any law of the United States.

4 “(3) TREATMENT OF EXPENSES PAID BY DE-
5 PENDENT.—If a deduction under section 151 with
6 respect to an individual is allowed to another tax-
7 payer for a taxable year beginning in the calendar
8 year in which such individual’s taxable year begins—

9 “(A) no credit shall be allowed under sub-
10 section (a) to such individual for such individ-
11 ual’s taxable year, and

12 “(B) qualified tuition and related expenses
13 paid by such individual during such individual’s
14 taxable year shall be treated for purposes of
15 this section as paid by such other taxpayer.

16 “(4) TREATMENT OF CERTAIN PREPAY-
17 MENTS.—If qualified tuition and related expenses
18 are paid by the taxpayer during a taxable year for
19 an academic period which begins during the first 3
20 months following such taxable year, such academic
21 period shall be treated for purposes of this section
22 as beginning during such taxable year.

23 “(5) DENIAL OF DOUBLE BENEFIT.—No credit
24 shall be allowed under this section for any expense

1 for which deduction is allowed under any other pro-
2 vision of this chapter.

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

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

15 “(e) INFLATION ADJUSTMENT.—

16 “(1) IN GENERAL.—In the case of any taxable
17 year beginning after 2011, the \$50,000 amount in
18 subsection (b)(1)(B)(i)(II) shall be increased by an
19 amount equal to—

20 “(A) such dollar amount, multiplied by

21 “(B) the cost-of-living adjustment deter-
22 mined under section 1(f)(3) for the calendar
23 year in which the taxable year begins, deter-
24 mined by substituting ‘calendar year 2010’ for

1 ‘calendar year 1992’ in subparagraph (B)
2 thereof.

3 “(2) ROUNDING.—If any amount as adjusted
4 under paragraph (1) is not a multiple of \$1,000,
5 such amount shall be rounded to the next lowest
6 multiple of \$1,000.

7 “(f) REGULATIONS.—The Secretary may prescribe
8 such regulations as may be necessary or appropriate to
9 carry out this section, including regulations providing for
10 a recapture of the credit allowed under this section in
11 cases where there is a refund in a subsequent taxable year
12 of any expense which was taken into account in deter-
13 mining the amount of such credit.”.

14 (b) REPEAL OF DEDUCTION FOR INTEREST ON EDU-
15 CATION LOANS.—Part VII of subchapter B of chapter 1
16 (relating to additional itemized deductions for individuals)
17 is amended by striking section 221.

18 (c) CONFORMING AMENDMENTS.—

19 (1) Section 62(a) is amended by striking para-
20 graph (17).

21 (2) Subparagraph (A) of section 86(b)(2) is
22 amended by striking “, 221”.

23 (3) Subparagraph (B) of section 72(t)(7) is
24 amended by striking “section 25A(g)(2)” and insert-
25 ing “section 25A(d)(2)”.

1 (4) Subparagraph (A) of section 135(c)(4) is
2 amended by striking “, 221”.

3 (5) Subparagraph (A) of section 137(b)(3) is
4 amended by striking “, 221”.

5 (6) Paragraph (2) of section 163(h) is amended
6 by adding “and” at the end of subparagraph (D), by
7 striking “, and” at the end of subparagraph (E) and
8 inserting a period, and by striking subparagraph
9 (F).

10 (7) Subparagraph (A) of section 199(d)(2) is
11 amended by striking “, 221”.

12 (8) Clause (ii) of section 219(g)(3)(A) is
13 amended by striking “, 221”.

14 (9) Clause (iii) of section 469(i)(3)(F) is
15 amended by striking “, 221”.

16 (10) Subclause (I) of section 529(c)(3)(B)(v) is
17 amended by striking “section 25A(g)(2)” and insert-
18 ing “section 25A(d)(2)”.

19 (11) Paragraph (3) of section 529(e) is amend-
20 ed—

21 (A) by striking “(as defined in section
22 25A(b)(3))” in subparagraph (A), and

23 (B) by adding at the end the following new
24 subparagraph:

1 “(C) ELIGIBLE STUDENT.—For purposes
2 of this paragraph, the term ‘eligible student’
3 means, with respect to any academic period, a
4 student who—

5 “(i) meets the requirements of section
6 484(a)(1) of the Higher Education Act of
7 1965 (20 U.S.C. 1091(a)(1)), as in effect
8 on the date of the enactment of the Tax-
9 payer Relief Act of 1997, and

10 “(ii) is carrying at least $\frac{1}{2}$ the normal
11 full-time workload for the course of study
12 the student is pursuing.”.

13 (12) Subclause (I) of section 530(d)(2)(C)(i) is
14 amended by striking “section 25A(g)(2)” and insert-
15 ing “section 25A(d)(2)”.

16 (13) Clause (iii) of section 530(d)(4)(B) is
17 amended by striking “section 25A(g)(2)” and insert-
18 ing “section 25A(d)(2)”.

19 (14) Section 1400O is amended by adding at
20 the end the following flush sentence:

21 “For purposes of this section, any reference to section 25A
22 shall be treated as a reference to such section as in effect
23 on the day before the date of the enactment of this sen-
24 tence.”.

1 “(2) Section 79 (relating to exclusion of group-
2 term life insurance purchased for employees).

3 “(3) Section 119 (relating to exclusion of meals
4 or lodging furnished for the convenience of the em-
5 ployer).

6 “(4) Section 125 (relating to exclusion of cafe-
7 teria plan benefits).

8 “(5) Section 132 (relating to certain fringe ben-
9 efits), except with respect to subsection (a)(5) there-
10 of (relating to exclusion of qualified transportation
11 fringe).

12 “(6) Section 217 (relating to deduction for
13 moving expenses).

14 “(7) Section 454 (relating to deferral of tax on
15 obligations issued at discount).

16 “(8) Section 501(c)(9) (relating to tax-exempt
17 status of voluntary employees’ beneficiary associa-
18 tions).

19 “(9) Section 911 (relating to exclusion of
20 earned income of citizens or residents of the United
21 States living abroad).

22 “(10) Section 912 (relating to exemption for
23 certain allowances).”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
 2 tions for subchapter C of chapter 90 is amended by adding
 3 at the end the following new item:

“Sec. 7875. Termination of certain provisions.”.

4 **SEC. 115. SIMPLIFIED TAX RETURN PREPARATION.**

5 Beginning on January 1, 2011, the Internal Revenue
 6 Service shall provide to any taxpayer who requests it a
 7 simplified “Easyfile” pre-prepared income tax return, on
 8 paper, compact disc, or through the Internet, based on
 9 data the Internal Revenue Service receives with respect
 10 to such taxpayer (including wages, self-employment in-
 11 come, and dividend, capital gains, and interest income).
 12 The Internal Revenue Service shall provide with every
 13 “Easyfile” a one-page summary of how the most recently
 14 available fiscal year’s tax revenue was spent, including
 15 spending on Social Security, Medicare, Medicaid, defense,
 16 and interest on the Federal debt.

17 **TITLE II—CORPORATE AND**
 18 **BUSINESS INCOME TAX RE-**
 19 **FORMS**

20 **SEC. 201. CORPORATE FLAT TAX.**

21 (a) IN GENERAL.—Subsection (b) of section 11 (re-
 22 lating to tax imposed) is amended to read as follows:

23 “(b) AMOUNT OF TAX.—The amount of tax imposed
 24 by subsection (a) shall be equal to 24 percent of the tax-
 25 able income.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 280C(c)(3)(B)(ii)(II) is amended by
3 striking “maximum rate of tax under section
4 11(b)(1)” and inserting “rate of tax under section
5 11(b)”.

6 (2) Sections 860E(e)(2)(B), 860E(e)(6)(A)(ii),
7 860K(d)(2)(A)(ii), 860K(e)(1)(B)(ii),
8 1446(b)(2)(B), and 7874(e)(1)(B) are each amended
9 by striking “highest rate of tax specified in section
10 11(b)(1)” and inserting “rate of tax specified in sec-
11 tion 11(b)”.

12 (3) Section 904(b)(3)(D)(ii) is amended by
13 striking “(determined without regard to the last sen-
14 tence of section 11(b)(1))”.

15 (4) Section 962 is amended by striking sub-
16 section (e) and by redesignating subsection (d) as
17 subsection (e).

18 (5) Section 1201(a) is amended by striking
19 “(determined without regard to the last 2 sentences
20 of section 11(b)(1))”.

21 (6) Section 1561(a) is amended—

22 (A) by striking paragraph (1) and by re-
23 designating paragraphs (2), (3), and (4) as
24 paragraphs (1), (2), and (3), respectively,

1 (B) by striking “The amounts specified in
2 paragraph (1), the” and inserting “The”,

3 (C) by striking “paragraph (2)” and in-
4 serting “paragraph (1)”,

5 (D) by striking “paragraph (3)” both
6 places it appears and inserting “paragraph
7 (2)”,

8 (E) by striking “paragraph (4)” and in-
9 serting “paragraph (3)”, and

10 (F) by striking the fourth sentence.

11 (7) Subsection (b) of section 1561 is amended
12 to read as follows:

13 “(b) CERTAIN SHORT TAXABLE YEARS.—If a cor-
14 poration has a short taxable year which does not include
15 a December 31 and is a component member of a controlled
16 group of corporations with respect to such taxable year,
17 then for purposes of this subtitle, the amount to be used
18 in computing the accumulated earnings credit under sec-
19 tion 535(c) (2) and (3) of such corporation for such tax-
20 able year shall be the amount specified in subsection
21 (a)(1) divided by the number of corporations which are
22 component members of such group on the last day of such
23 taxable year. For purposes of the preceding sentence, sec-
24 tion 1563(b) shall be applied as if such last day were sub-
25 stituted for December 31.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2010.

4 **SEC. 202. TREATMENT OF TRAVEL ON CORPORATE AIR-**
5 **CRAFT.**

6 (a) IN GENERAL.—Section 162 (relating to trade or
7 business expenses) is amended by redesignating subsection
8 (q) as subsection (r) and by inserting after subsection (p)
9 the following new subsection:

10 “(q) TREATMENT OF TRAVEL ON CORPORATE AIR-
11 CRAFT.—The rate at which an amount allowable as a de-
12 duction under this chapter for the use of an aircraft owned
13 by the taxpayer is determined shall not exceed the rate
14 at which an amount paid or included in income by an em-
15 ployee of such taxpayer for the personal use of such air-
16 craft is determined.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2010.

20 **SEC. 203. UNLIMITED EXPENSING OF DEPRECIABLE ASSETS**
21 **AND INVENTORIES FOR CERTAIN SMALL**
22 **BUSINESSES.**

23 (a) UNLIMITED EXPENSING.—Section 179 (relating
24 to election to expense certain depreciable business assets)

1 is amended by adding at the end the following new sub-
2 section:

3 “(f) UNLIMITED EXPENSING FOR CERTAIN SMALL
4 BUSINESS TAXPAYERS.—

5 “(1) IN GENERAL.—In the case of any eligible
6 taxpayer, this section shall be applied with respect to
7 any taxable year without regard to subsection (b).

8 “(2) ELIGIBLE TAXPAYER.—For purposes of
9 this subsection, a taxpayer is an eligible taxpayer
10 with respect to any taxable year if for all prior tax-
11 able years beginning after December 31, 2010, the
12 taxpayer (or any predecessor) met the gross receipts
13 test of section 448(c) (determined by substituting
14 ‘\$1,000,000’ for ‘\$5,000,000’ each place it ap-
15 pears).”.

16 (b) CLARIFICATION OF INVENTORY RULES FOR
17 SMALL BUSINESS.—Section 471 (relating to general rule
18 for inventories) is amended by redesignating subsection (c)
19 as subsection (d) and by inserting after subsection (b) the
20 following new subsection:

21 “(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED
22 TO USE INVENTORIES.—

23 “(1) IN GENERAL.—An eligible taxpayer (as de-
24 termined under section 179(f)(2)) shall not be re-

1 quired to use inventories under this section for a
2 taxable year.

3 “(2) TREATMENT OF TAXPAYERS NOT USING
4 INVENTORIES.—If an eligible taxpayer does not use
5 inventories with respect to any property for any tax-
6 able year beginning after December 31, 2010, such
7 property shall be treated as a material or supply
8 which is not incidental.”.

9 (c) EFFECTIVE DATE AND SPECIAL RULES.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to taxable years beginning
12 after December 31, 2010.

13 (2) CHANGE IN METHOD OF ACCOUNTING.—In
14 the case of any taxpayer changing the taxpayer’s
15 method of accounting for any taxable year under the
16 amendments made by this section—

17 (A) such change shall be treated as initi-
18 ated by the taxpayer,

19 (B) such change shall be treated as made
20 with the consent of the Secretary of the Treas-
21 ury, and

22 (C) the net amount of the adjustments re-
23 quired to be taken into account by the taxpayer
24 under section 481 of the Internal Revenue Code
25 of 1986 shall be taken into account over a pe-

1 energy Regulatory Commission or State electric re-
2 structuring policy).

3 “(16) Section 453A (relating to special rules for
4 nondealers), but only with respect to the dollar limi-
5 tation under subsection (b)(1) thereof and sub-
6 section (b)(3) thereof (relating to exception for per-
7 sonal use and farm property).

8 “(17) Section 460(e)(1) (relating to special
9 rules for long-term home construction contracts or
10 other short-term construction contracts).

11 “(18) Section 613A (relating to percentage de-
12pletion in case of oil and gas wells).

13 “(19) Section 616 (relating to development
14 costs).

15 “(20) Sections 861(a)(6), 862(a)(6), 863(b)(2),
16 863(b)(3), and 865(b) (relating to inventory prop-
17 erty sales source rule exception).”.

18 (b) FULL TAX RATE ON NUCLEAR DECOMMISS-
19 SIONING RESERVE FUND.—Subparagraph (B) of section
20 468A(e)(2) is amended to read as follows:

21 “(B) RATE OF TAX.—For purposes of sub-
22 paragraph (A), the rate set forth in this sub-
23 paragraph is 25 percent.”.

24 (c) DEFERRAL OF ACTIVE INCOME OF CONTROLLED
25 FOREIGN CORPORATIONS.—Section 952 (relating to sub-

1 part F income defined) is amended by adding at the end
2 the following new subsection:

3 “(e) SPECIAL APPLICATION OF SUBPART.—

4 “(1) IN GENERAL.—For taxable years begin-
5 ning after December 31, 2010, notwithstanding any
6 other provision of this subpart, the term ‘subpart F
7 income’ means, in the case of any controlled foreign
8 corporation, the income of such corporation derived
9 from any foreign country.

10 “(2) APPLICABLE RULES.—Rules similar to the
11 rules under the last sentence of subsection (a) and
12 subsection (d) shall apply to this subsection.”.

13 (d) DEPRECIATION ON EQUIPMENT IN EXCESS OF
14 ALTERNATIVE DEPRECIATION SYSTEM.—Section
15 168(g)(1) (relating to alternative depreciation system) is
16 amended by striking “and” at the end of subparagraph
17 (D), by adding “and” at the end of subparagraph (E),
18 and by inserting after subparagraph (E) the following new
19 subparagraph:

20 “(F) notwithstanding subsection (a), any
21 tangible property placed in service after Decem-
22 ber 31, 2010,”.

23 (e) EFFECTIVE DATE.—The amendments made by
24 subsections (b) and (c) shall apply to taxable years begin-
25 ning after December 31, 2010.

1 **SEC. 205. PASS-THROUGH BUSINESS ENTITY TRANS-**
2 **PARENCY.**

3 Not later than 90 days after the date of the enact-
4 ment of this Act, the Secretary of the Treasury shall re-
5 port to the Committee on Finance of the Senate and the
6 Committee on Ways and Means of the House of Rep-
7 resentatives regarding the implementation of additional
8 reporting requirements with respect to any pass-through
9 entity with the goal of the reduction of tax avoidance
10 through the use of such entities. In addition, the Secretary
11 shall develop procedures to share such report data with
12 State revenue agencies under the disclosure requirements
13 of section 6103(d) of the Internal Revenue Code of 1986.

14 **SEC. 206. MODIFICATION OF EFFECTIVE DATE OF LEASING**
15 **PROVISIONS OF THE AMERICAN JOBS CRE-**
16 **ATION ACT OF 2004.**

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

20 “(5) LEASES TO FOREIGN ENTITIES.—In the
21 case of tax-exempt use property leased to a tax-ex-
22 empt entity which is a foreign person or entity, the
23 amendments made by this part shall apply to taxable
24 years beginning after December 31, 2010, with re-
25 spect to leases entered into on or before March 12,
26 2004.”.

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

4 **SEC. 207. REVALUATION OF LIFO INVENTORIES OF LARGE**
5 **INTEGRATED OIL COMPANIES.**

6 (a) GENERAL RULE.—Notwithstanding any other
7 provision of law, if a taxpayer is an applicable integrated
8 oil company for its last taxable year ending in calendar
9 year 2010, the taxpayer shall—

10 (1) increase, effective as of the close of such
11 taxable year, the value of each historic LIFO layer
12 of inventories of crude oil, natural gas, or any other
13 petroleum product (within the meaning of section
14 4611) by the layer adjustment amount, and

15 (2) decrease its cost of goods sold for such tax-
16 able year by the aggregate amount of the increases
17 under paragraph (1).

18 If the aggregate amount of the increases under paragraph
19 (1) exceed the taxpayer's cost of goods sold for such tax-
20 able year, the taxpayer's gross income for such taxable
21 year shall be increased by the amount of such excess.

22 (b) LAYER ADJUSTMENT AMOUNT.—For purposes of
23 this section—

1 (1) IN GENERAL.—The term “layer adjustment
2 amount” means, with respect to any historic LIFO
3 layer, the product of—

4 (A) \$18.75, and

5 (B) the number of barrels of crude oil (or
6 in the case of natural gas or other petroleum
7 products, the number of barrel-of-oil equiva-
8 lents) represented by the layer.

9 (2) BARREL-OF-OIL EQUIVALENT.—The term
10 “barrel-of-oil equivalent” has the meaning given
11 such term by section 29(d)(5) (as in effect before its
12 redesignation by the Energy Tax Incentives Act of
13 2005).

14 (c) APPLICATION OF REQUIREMENT.—

15 (1) NO CHANGE IN METHOD OF ACCOUNTING.—
16 Any adjustment required by this section shall not be
17 treated as a change in method of accounting.

18 (2) UNDERPAYMENTS OF ESTIMATED TAX.—No
19 addition to the tax shall be made under section 6655
20 of the Internal Revenue Code of 1986 (relating to
21 failure by corporation to pay estimated tax) with re-
22 spect to any underpayment of an installment re-
23 quired to be paid with respect to the taxable year
24 described in subsection (a) to the extent such under-
25 payment was created or increased by this section.

1 (d) APPLICABLE INTEGRATED OIL COMPANY.—For
2 purposes of this section, the term “applicable integrated
3 oil company” means an integrated oil company (as defined
4 in section 291(b)(4) of the Internal Revenue Code of
5 1986) which has an average daily worldwide production
6 of crude oil of at least 500,000 barrels for the taxable
7 year and which had gross receipts in excess of
8 \$1,000,000,000 for its last taxable year ending during cal-
9 endar year 2008. For purposes of this subsection all per-
10 sons treated as a single employer under subsections (a)
11 and (b) of section 52 of the Internal Revenue Code of
12 1986 shall be treated as 1 person and, in the case of a
13 short taxable year, the rule under section 448(c)(3)(B)
14 shall apply.

15 **SEC. 208. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**
16 **APPLICABLE TO LARGE INTEGRATED OIL**
17 **COMPANIES WHICH ARE DUAL CAPACITY**
18 **TAXPAYERS.**

19 (a) IN GENERAL.—Section 901 (relating to credit for
20 taxes of foreign countries and of possessions of the United
21 States) is amended by redesignating subsection (m) as
22 subsection (n) and by inserting after subsection (l) the fol-
23 lowing new subsection:

1 “(m) SPECIAL RULES RELATING TO LARGE INTE-
2 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
3 TAXPAYERS.—

4 “(1) GENERAL RULE.—Notwithstanding any
5 other provision of this chapter, any amount paid or
6 accrued by a dual capacity taxpayer which is a large
7 integrated oil company to a foreign country or pos-
8 session of the United States for any period shall not
9 be considered a tax—

10 “(A) if, for such period, the foreign coun-
11 try or possession does not impose a generally
12 applicable income tax, or

13 “(B) to the extent such amount exceeds
14 the amount (determined in accordance with reg-
15 ulations) which—

16 “(i) is paid by such dual capacity tax-
17 payer pursuant to the generally applicable
18 income tax imposed by the country or pos-
19 session, or

20 “(ii) would be paid if the generally ap-
21 plicable income tax imposed by the country
22 or possession were applicable to such dual
23 capacity taxpayer.

24 Nothing in this paragraph shall be construed to
25 imply the proper treatment of any such amount

1 not in excess of the amount determined under
2 subparagraph (B).

3 “(2) DUAL CAPACITY TAXPAYER.—For pur-
4 poses of this subsection, the term ‘dual capacity tax-
5 payer’ means, with respect to any foreign country or
6 possession of the United States, a person who—

7 “(A) is subject to a levy of such country or
8 possession, and

9 “(B) receives (or will receive) directly or
10 indirectly a specific economic benefit (as deter-
11 mined in accordance with regulations) from
12 such country or possession.

13 “(3) GENERALLY APPLICABLE INCOME TAX.—
14 For purposes of this subsection—

15 “(A) IN GENERAL.—The term ‘generally
16 applicable income tax’ means an income tax (or
17 a series of income taxes) which is generally im-
18 posed under the laws of a foreign country or
19 possession on income derived from the conduct
20 of a trade or business within such country or
21 possession.

22 “(B) EXCEPTIONS.—Such term shall not
23 include a tax unless it has substantial applica-
24 tion, by its terms and in practice, to—

1 “(i) persons who are not dual capacity
2 taxpayers, and

3 “(ii) persons who are citizens or resi-
4 dents of the foreign country or possession.

5 “(4) LARGE INTEGRATED OIL COMPANY.—For
6 purposes of this subsection, the term ‘large inte-
7 grated oil company’ means, with respect to any tax-
8 able year, an integrated oil company (as defined in
9 section 291(b)(4)) which—

10 “(A) had gross receipts in excess of
11 \$1,000,000,000 for such taxable year, and

12 “(B) has an average daily worldwide pro-
13 duction of crude oil of at least 500,000 barrels
14 for such taxable year.”

15 (b) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendments made by
17 this section shall apply to taxes paid or accrued in
18 taxable years beginning after the date of the enact-
19 ment of this Act.

20 (2) CONTRARY TREATY OBLIGATIONS
21 UPHELD.—The amendments made by this section
22 shall not apply to the extent contrary to any treaty
23 obligation of the United States.

1 **SEC. 209. REPEAL OF LOWER OF COST OR MARKET VALUE**
2 **OF INVENTORY RULE.**

3 (a) IN GENERAL.—Subsection (a) of section 471 (re-
4 lating to general rules for inventories) is amended to read
5 as follows:

6 “(a) GENERAL RULE.—Whenever in the opinion of
7 the Secretary the use of inventories is necessary in order
8 clearly to determine the income of the taxpayer, inven-
9 tories shall be valued at cost.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

13 **SEC. 210. REINSTITUTION OF PER COUNTRY FOREIGN TAX**
14 **CREDIT.**

15 (a) IN GENERAL.—Subsection (a) of section 904 (re-
16 lating to limitation on credit) is amended to read as fol-
17 lows:

18 “(a) LIMITATION.—The amount of the credit in re-
19 spect of the tax paid or accrued to any foreign country
20 or possession of the United States shall not exceed the
21 same proportion of the tax against which such credit is
22 taken which the taxpayer’s taxable income from sources
23 within such country or possession (but not in excess of
24 the taxpayer’s entire taxable income) bears to such tax-
25 payer’s entire taxable income for the same taxable year.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2010.

4 **SEC. 211. APPLICATION OF RULES TREATING INVERTED**
5 **CORPORATIONS AS DOMESTIC CORPORA-**
6 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**
7 **RING AFTER MARCH 20, 2002.**

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

11 “(b) INVERTED CORPORATIONS TREATED AS DO-
12 MESTIC CORPORATIONS.—

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

19 “(2) SPECIAL RULE FOR CERTAIN TRANS-
20 ACTIONS OCCURRING AFTER MARCH 20, 2002.—

21 “(A) IN GENERAL.—If—

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

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

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

5 then paragraph (1) shall apply to such corpora-
6 tion but only with respect to taxable years of
7 such corporation beginning after December 31,
8 2010.

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

13 “(i) the corporation shall be treated,
14 as of the close of its last taxable year be-
15 ginning before January 1, 2011, as having
16 transferred all of its assets, liabilities, and
17 earnings and profits to a domestic corpora-
18 tion in a transaction with respect to which
19 no tax is imposed under this title,

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

1 “(n) INDEXING CORPORATE INTEREST DEDUCTION
2 FOR INFLATION.—

3 “(1) IN GENERAL.—In the case of a corpora-
4 tion, the deduction allowed under this chapter for in-
5 terest paid for any taxable year with respect to any
6 obligation shall be adjusted by multiplying the
7 amount otherwise so allowed by 1 minus the frac-
8 tional exclusion rate for such taxable year.

9 “(2) FRACTIONAL EXCLUSION RATE.—For any
10 taxable year, the Secretary shall determine the frac-
11 tional exclusion rate using—

12 “(A) a fraction—

13 “(i) the numerator of which is the
14 cost-of-living adjustment determined under
15 section 1(f)(3) for the calendar year in
16 which the taxable year begins by sub-
17 stituting ‘the second preceding calendar
18 year’ for ‘calendar year 1992’ in subpara-
19 graph (B) thereof, and

20 “(ii) the denominator of which is the
21 nominal interest rate for such obligation,
22 and

23 “(B) a constant real before tax rate of re-
24 turn of 6 percent.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2010.

4 **SEC. 213. PROHIBITION OF ADVANCE REFUNDING OF**
5 **BONDS.**

6 (a) IN GENERAL.—Subsection (d) of section 149 is
7 amended—

8 (1) by striking paragraphs (1), (2), (3), (4),
9 and (6),

10 (2) by redesignating paragraphs (5) and (7) as
11 paragraphs (2) and (3), respectively, and

12 (3) by inserting before paragraph (2) (as reded-
13 icated by paragraph (2) the following new para-
14 graph:

15 “(1) PROHIBITION.—Nothing in section 103(a)
16 or in any other provision of law shall be construed
17 to provide an exemption from Federal income tax for
18 interest on any bond issued as part of an issue to
19 advance refund a bond.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to refunding bonds issued on or
22 after the date of the enactment of this Act.

1 **SEC. 214. CBO STUDY ON GOVERNMENT SPENDING ON**
2 **BUSINESSES.**

3 (a) **STUDY.**—The Congressional Budget Office shall
4 identify the Federal Government’s direct and indirect
5 spending on businesses, using among other sources, the
6 corporate welfare lists produced by the Cato Institute and
7 the Bureau of Economic Analysis of the Department of
8 Commerce, and, from that pool of spending, identify the
9 least economically justifiable and suggest options for how
10 Congress could potentially reduce Federal spending on the
11 least justifiable programs by at least \$230,000,000,000
12 during a 10-year period.

13 (b) **REPORT.**—The Congressional Budget Office shall
14 report not later than one year after the date of the enact-
15 ment of this Act on the results of the study required under
16 subsection (a) and shall submit such report for the pur-
17 pose of hearing by the Committee on the Budget of the
18 House of Representatives and the Committee on the
19 Budget of the Senate.

20 **TITLE III—REPEAL OF**
21 **ALTERNATIVE MINIMUM TAX**

22 **SEC. 301. REPEAL OF ALTERNATIVE MINIMUM TAX.**

23 (a) **IN GENERAL.**—Section 55(a) (relating to alter-
24 native minimum tax imposed) is amended by adding at
25 the end the following new flush sentence:

1 “For purposes of this title, the tentative minimum tax on
2 any taxpayer for any taxable year beginning after Decem-
3 ber 31, 2010, shall be zero.”.

4 (b) MODIFICATION OF LIMITATION ON USE OF
5 CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—
6 Subsection (c) of section 53 (relating to credit for prior
7 year minimum tax liability) is amended to read as follows:

8 “(c) LIMITATION.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), the credit allowable under subsection (a)
11 for any taxable year shall not exceed the excess (if
12 any) of—

13 “(A) the regular tax liability of the tax-
14 payer for such taxable year reduced by the sum
15 of the credits allowable under subparts A, B, D,
16 E, and F of this part, over

17 “(B) the tentative minimum tax for the
18 taxable year.

19 “(2) TAXABLE YEARS BEGINNING AFTER
20 2010.—In the case of any taxable year beginning
21 after December 31, 2010, the credit allowable under
22 subsection (a) to a taxpayer other than a corpora-
23 tion for any taxable year shall not exceed 90 percent
24 of the regular tax liability of the taxpayer for such
25 taxable year reduced by the sum of the credits allow-

1 able under subparts A, B, D, E, and F of this
2 part.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2010.

6 **TITLE IV—OTHER PROVISIONS**
7 **Subtitle A—Improvements in Tax**
8 **Compliance**

9 **SEC. 401. INFORMATION REPORTING ON PAYMENTS TO**
10 **CORPORATIONS.**

11 (a) IN GENERAL.—Section 6041 is amended by add-
12 ing at the end the following new subsections:

13 “(h) APPLICATION TO CORPORATIONS.—Notwith-
14 standing any regulation prescribed by the Secretary before
15 the date of the enactment of this subsection, for purposes
16 of this section the term ‘person’ includes any corporation
17 that is not an organization exempt from tax under section
18 501(a).

19 “(i) REGULATIONS.—The Secretary may prescribe
20 such regulations and other guidance as may be appro-
21 priate or necessary to carry out the purposes of this sec-
22 tion, including rules to prevent duplicative reporting of
23 transactions.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to payments made after December
3 31, 2010.

4 **SEC. 402. ADDITIONAL REPORTING REQUIREMENTS BY**
5 **REGULATION.**

6 The Secretary of the Treasury is authorized to issue
7 regulations under which with respect to payments made
8 after December 31, 2010—

9 (1) any merchant acquiring bank is required to
10 annually report to the Secretary the gross reim-
11 bursement payments made to merchants in a cal-
12 endar year, unless the benefit of such reporting does
13 not justify the cost of compliance, as determined by
14 the Secretary,

15 (2) any contractor receiving payments of \$600
16 or more in a calendar year from a particular busi-
17 ness is required to furnish such business the con-
18 tractor's certified taxpayer identification number or
19 be subject to withholding on such payments at a flat
20 rate percentage selected by the contractor, and

21 (3) any Federal, State, or local government is
22 required to report to the Secretary any non-wage
23 payment to procure property and services, other
24 than payments of interest, payments for real prop-
25 erty, payments to tax-exempt entities or foreign gov-

1 ernments, intergovernmental payments, and pay-
2 ments made pursuant to a classified or confidential
3 contract.

4 **SEC. 403. INCREASE IN INFORMATION RETURN PENALTIES.**

5 (a) FAILURE TO FILE CORRECT INFORMATION RE-
6 TURNS.—

7 (1) IN GENERAL.—Section 6721(a)(1) is
8 amended—

9 (A) by striking “\$50” and inserting
10 “\$250”, and

11 (B) by striking “\$250,000” and inserting
12 “\$3,000,000”.

13 (2) REDUCTION WHERE CORRECTION IN SPECI-
14 FIED PERIOD.—

15 (A) CORRECTION WITHIN 30 DAYS.—Sec-
16 tion 6721(b)(1) is amended—

17 (i) by striking “\$15” and inserting
18 “\$50”,

19 (ii) by striking “\$50” and inserting
20 “\$250”, and

21 (iii) by striking “\$75,000” and insert-
22 ing “\$500,000”.

23 (B) FAILURES CORRECTED ON OR BEFORE
24 AUGUST 1.—Section 6721(b)(2) is amended—

1 (i) by striking “\$30” and inserting
2 “\$100”,

3 (ii) by striking “\$50” and inserting
4 “\$250”, and

5 (iii) by striking “\$150,000” and in-
6 serting “\$1,500,000”.

7 (3) LOWER LIMITATION FOR PERSONS WITH
8 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—
9 Section 6721(d)(1) is amended—

10 (A) in subparagraph (A)—

11 (i) by striking “\$100,000” and insert-
12 ing “\$1,000,000”, and

13 (ii) by striking “\$250,000” and in-
14 serting “\$3,000,000”,

15 (B) in subparagraph (B)—

16 (i) by striking “\$25,000” and insert-
17 ing “\$175,000”, and

18 (ii) by striking “\$75,000” and insert-
19 ing “\$500,000”, and

20 (C) in subparagraph (C)—

21 (i) by striking “\$50,000” and insert-
22 ing “\$500,000”, and

23 (ii) by striking “\$150,000” and in-
24 serting “\$1,500,000”.

1 (4) PENALTY IN CASE OF INTENTIONAL DIS-
2 REGARD.—Section 6721(e) is amended—

3 (A) by striking “\$100” in paragraph (2)
4 and inserting “\$500”, and

5 (B) by striking “\$250,000” in paragraph
6 (3)(A) and inserting “\$3,000,000”.

7 (b) FAILURE TO FURNISH CORRECT PAYEE STATE-
8 MENTS.—

9 (1) IN GENERAL.—Section 6722(a) is amend-
10 ed—

11 (A) by striking “\$50” and inserting
12 “\$250”, and

13 (B) by striking “\$100,000” and inserting
14 “\$1,000,000”.

15 (2) PENALTY IN CASE OF INTENTIONAL DIS-
16 REGARD.—Section 6722(c) is amended—

17 (A) by striking “\$100” in paragraph (1)
18 and inserting “\$500”, and

19 (B) by striking “\$100,000” in paragraph
20 (2)(A) and inserting “\$1,000,000”.

21 (c) FAILURE TO COMPLY WITH OTHER INFORMA-
22 TION REPORTING REQUIREMENTS.—Section 6723 is
23 amended—

24 (1) by striking “\$50” and inserting “\$250”,
25 and

1 1, 2011, the Secretary of the Treasury shall issue regula-
2 tions establishing—

3 (1) standards for holding employee leasing com-
4 panies jointly and severally liable with their clients
5 for Federal employment taxes under chapters 21,
6 22, 23, and 24 of the Internal Revenue Code of
7 1986, and

8 (2) standards for holding such companies solely
9 liable for such taxes.

10 **SEC. 406. EXPANSION OF IRS ACCESS TO INFORMATION IN**
11 **NATIONAL DIRECTORY OF NEW HIRES FOR**
12 **TAX ADMINISTRATION PURPOSES.**

13 (a) **IN GENERAL.**—Paragraph (3) of section 453(j)
14 of the Social Security Act (42 U.S.C. 653(j)) is amended
15 to read as follows:

16 “(3) **ADMINISTRATION OF FEDERAL TAX**
17 **LAWS.**—The Secretary of the Treasury shall have
18 access to the information in the National Directory
19 of New Hires for purposes of administering the In-
20 ternal Revenue Code of 1986.”

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

1 **SEC. 407. MODIFICATION OF CRIMINAL PENALTIES FOR**
2 **WILLFUL FAILURES INVOLVING TAX PAY-**
3 **MENTS AND FILING REQUIREMENTS.**

4 (a) INCREASE IN PENALTY FOR ATTEMPT TO EVADE
5 OR DEFEAT TAX.—Section 7201 (relating to attempt to
6 evade or defeat tax) is amended—

7 (1) by striking “\$100,000” and inserting
8 “\$500,000”,

9 (2) by striking “\$500,000” and inserting
10 “\$1,000,000”, and

11 (3) by striking “5 years” and inserting “10
12 years”.

13 (b) MODIFICATION OF PENALTIES FOR WILLFUL
14 FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR
15 PAY TAX.—

16 (1) IN GENERAL.—Section 7203 (relating to
17 willful failure to file return, supply information, or
18 pay tax) is amended—

19 (A) in the first sentence—

20 (i) by striking “Any person” and in-
21 serting the following:

22 “(a) IN GENERAL.—Any person”, and

23 (ii) by striking “\$25,000” and insert-
24 ing “\$50,000”,

25 (B) in the third sentence, by striking “sec-
26 tion” and inserting “subsection”, and

1 (C) by adding at the end the following new
2 subsection:

3 “(b) AGGRAVATED FAILURE TO FILE.—

4 “(1) IN GENERAL.—In the case of any failure
5 described in paragraph (2), the first sentence of sub-
6 section (a) shall be applied by substituting—

7 “(A) ‘felony’ for ‘misdemeanor’,

8 “(B) ‘\$250,000 (\$500,000’ for ‘\$50,000
9 (\$100,000’, and

10 “(C) ‘5 years’ for ‘1 year’.

11 “(2) FAILURE DESCRIBED.—A failure described
12 in this paragraph is—

13 “(A) a failure to make a return described
14 in subsection (a) for any 3 taxable years occur-
15 ring during any period of 5 consecutive taxable
16 years if the aggregate tax liability for such pe-
17 riod is not less than \$50,000, or

18 “(B) a failure to make a return if the tax
19 liability giving rise to the requirement to make
20 such return is attributable to an activity which
21 is a felony under any State or Federal law.”.

22 (2) PENALTY MAY BE APPLIED IN ADDITION TO
23 OTHER PENALTIES.—Section 7204 (relating to
24 fraudulent statement or failure to make statement to
25 employees) is amended by striking “the penalty pro-

1 vided in section 6674” and inserting “the penalties
2 provided in sections 6674 and 7203(b)”.

3 (c) FRAUD AND FALSE STATEMENTS.—Section 7206
4 (relating to fraud and false statements) is amended—

5 (1) by striking “\$100,000” and inserting
6 “\$500,000”,

7 (2) by striking “\$500,000” and inserting
8 “\$1,000,000”, and

9 (3) by striking “3 years” and inserting “5
10 years”.

11 (d) INCREASE IN MONETARY LIMITATION FOR UN-
12 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO
13 FRAUD.—Section 7206 (relating to fraud and false state-
14 ments), as amended by subsection (a)(3), is amended—

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

17 (2) by adding at the end the following new sub-
18 section:

19 “(b) INCREASE IN MONETARY LIMITATION FOR UN-
20 DERPAYMENT OR OVERPAYMENT OF TAX DUE TO
21 FRAUD.—If any portion of any underpayment (as defined
22 in section 6664(a)) or overpayment (as defined in section
23 6401(a)) of tax required to be shown on a return is attrib-
24 utable to fraudulent action described in subsection (a), the
25 applicable dollar amount under subsection (a) shall in no

1 event be less than an amount equal to such portion. A
 2 rule similar to the rule under section 6663(b) shall apply
 3 for purposes of determining the portion so attributable.”.

4 (e) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to actions, and failures to act, oc-
 6 ccurring after the date of the enactment of this Act.

7 **SEC. 408. PENALTIES FOR FAILURE TO FILE CERTAIN RE-**
 8 **URNS ELECTRONICALLY.**

9 (a) IN GENERAL.—Part I of subchapter A of chapter
 10 68 (relating to additions to the tax, additional amounts,
 11 and assessable penalties) is amended by inserting after
 12 section 6652 the following new section:

13 **“SEC. 6652A. FAILURE TO FILE CERTAIN RETURNS ELEC-**
 14 **TRONICALLY.**

15 “(a) IN GENERAL.—If a person fails to file a return
 16 described in section 6651 or 6652(c)(1) in electronic form
 17 as required under section 6011(e)—

18 “(1) such failure shall be treated as a failure to
 19 file such return (even if filed in a form other than
 20 electronic form), and

21 “(2) the penalty imposed under section 6651 or
 22 6652(e), whichever is appropriate, shall be equal to
 23 the greater of—

1 “(A) the amount of the penalty under such
2 section, determined without regard to this sec-
3 tion, or

4 “(B) the amount determined under sub-
5 section (b).

6 “(b) AMOUNT OF PENALTY.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graphs (2) and (3), the penalty determined under
9 this subsection is equal to \$40 for each day during
10 which a failure described under subsection (a) con-
11 tinues. The maximum penalty under this paragraph
12 on failures with respect to any 1 return shall not ex-
13 ceed the lesser of \$20,000 or 10 percent of the gross
14 receipts of the taxpayer for the year.

15 “(2) INCREASED PENALTIES FOR TAXPAYERS
16 WITH GROSS RECEIPTS BETWEEN \$1,000,000 AND
17 \$100,000,000.—

18 “(A) TAXPAYERS WITH GROSS RECEIPTS
19 BETWEEN \$1,000,000 AND \$25,000,000.—In the
20 case of a taxpayer having gross receipts exceed-
21 ing \$1,000,000 but not exceeding \$25,000,000
22 for any year—

23 “(i) the first sentence of paragraph
24 (1) shall be applied by substituting ‘\$200’
25 for ‘\$40’, and

1 “(ii) in lieu of applying the second
2 sentence of paragraph (1), the maximum
3 penalty under paragraph (1) shall not ex-
4 ceed \$100,000.

5 “(B) TAXPAYERS WITH GROSS RECEIPTS
6 OVER \$25,000,000.—Except as provided in para-
7 graph (3), in the case of a taxpayer having
8 gross receipts exceeding \$25,000,000 for any
9 year—

10 “(i) the first sentence of paragraph
11 (1) shall be applied by substituting ‘\$500’
12 for ‘\$40’, and

13 “(ii) in lieu of applying the second
14 sentence of paragraph (1), the maximum
15 penalty under paragraph (1) shall not ex-
16 ceed \$250,000.

17 “(3) INCREASED PENALTIES FOR CERTAIN TAX-
18 PAYERS WITH GROSS RECEIPTS EXCEEDING
19 \$100,000,000.—In the case of a return described in
20 section 6651—

21 “(A) TAXPAYERS WITH GROSS RECEIPTS
22 BETWEEN \$100,000,000 AND \$250,000,000.—In the
23 case of a taxpayer having gross receipts exceed-
24 ing \$100,000,000 but not exceeding
25 \$250,000,000 for any year—

1 “(i) the amount of the penalty deter-
2 mined under this subsection shall equal the
3 sum of—

4 “(I) \$50,000, plus

5 “(II) \$1,000 for each day during
6 which such failure continues (twice
7 such amount for each day such failure
8 continues after the first such 60
9 days), and

10 “(ii) the maximum amount under
11 clause (i)(II) on failures with respect to
12 any 1 return shall not exceed \$200,000.

13 “(B) TAXPAYERS WITH GROSS RECEIPTS
14 OVER \$250,000,000.—In the case of a taxpayer
15 having gross receipts exceeding \$250,000,000
16 for any year—

17 “(i) the amount of the penalty deter-
18 mined under this subsection shall equal the
19 sum of—

20 “(I) \$250,000, plus

21 “(II) \$2,500 for each day during
22 which such failure continues (twice
23 such amount for each day such failure
24 continues after the first such 60
25 days), and

1 “(ii) the maximum amount under
2 clause (i)(II) on failures with respect to
3 any 1 return shall not exceed \$250,000.

4 “(C) EXCEPTION FOR CERTAIN RE-
5 TURNS.—Subparagraphs (A) and (B) shall not
6 apply to any return of tax imposed under sec-
7 tion 511.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for part I of subchapter A of chapter 68 is amended by
10 inserting after the item relating to section 6652 the fol-
11 lowing new item:

 “Sec. 6652A. Failure to file certain returns electronically.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to returns required to be filed on
14 or after January 1, 2011.

15 **SEC. 409. REPORTING ON IDENTIFICATION OF BENEFICIAL**
16 **OWNERS OF CERTAIN FOREIGN FINANCIAL**
17 **ACCOUNTS.**

18 (a) IN GENERAL.—Subchapter A of chapter 3 is
19 amended by adding at the end the following new section:

20 **“SEC. 1447. WITHHOLDABLE PAYMENTS TO CERTAIN FOR-**
21 **EIGN FINANCIAL ACCOUNTS.**

22 “(a) IN GENERAL.—In the case of any withholdable
23 payment to a foreign financial account, the withholding
24 agent with respect to such payment shall deduct and with-
25 hold from such payment a tax equal to 30 percent of the

1 amount of such payment if such agent does not meet the
2 reporting requirements under subsection (b) with respect
3 to such payment.

4 “(b) REPORTING REQUIREMENTS.—The require-
5 ments of this subsection are met with respect to any
6 withholdable payment to a foreign financial account if the
7 withholding agent with respect to such payment—

8 “(1) identifies—

9 “(A) the beneficial owner or owners of
10 such account by name, address, TIN (if any),
11 and

12 “(B) the account number,

13 “(2) obtains evidence of the nationality of such
14 owner or owners,

15 “(3) complies with such verification and due
16 diligence procedures as the Secretary may require
17 with respect to such identification and obtaining of
18 such evidence, and

19 “(4) reports such identification and evidence to
20 the Secretary in such manner as the Secretary re-
21 quires.

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

23 “(1) WITHHOLDABLE PAYMENT.—Except as
24 otherwise provided by the Secretary, the term
25 ‘withholdable payment’ means—

1 “(A) any payment of interest (including
2 any original issue discount), dividends, rents,
3 and other fixed or determinable annual or peri-
4 odical gains and profits, if such payment is
5 from sources within the United States, and

6 “(B) any gross proceeds from the sale or
7 other disposition of any property of a type
8 which can produce interest or dividends from
9 sources within the United States.

10 “(2) WITHHOLDING AGENT.—The term ‘with-
11 holding agent’ means all persons, in whatever capac-
12 ity acting, having the control, receipt, custody, dis-
13 posal, or payment of any withholdable payment.

14 “(3) FOREIGN FINANCIAL ACCOUNT.—

15 “(A) IN GENERAL.—The term ‘foreign fi-
16 nancial account’ means any financial account
17 maintained by a foreign financial institution.

18 “(B) FINANCIAL ACCOUNT.—Except as
19 otherwise provided by the Secretary, the term
20 ‘financial account’ means, with respect to any
21 foreign financial institution—

22 “(i) any depository account main-
23 tained by such financial institution, and

24 “(ii) any custodial account maintained
25 by such financial institution.

1 “(4) FOREIGN FINANCIAL INSTITUTION.—

2 “(A) IN GENERAL.—The term ‘foreign fi-
3 nancial institution’ means any financial institu-
4 tion which is a foreign entity. Except as other-
5 wise provided by the Secretary, such term shall
6 not include a financial institution which is orga-
7 nized under the laws of any possession of the
8 United States.

9 “(B) FINANCIAL INSTITUTION.—Except as
10 otherwise provided by the Secretary, the term
11 ‘financial institution’ means any entity that—

12 “(i) accepts deposits in the ordinary
13 course of a banking or similar business,

14 “(ii) is engaged primarily in the busi-
15 ness of holding financial assets for the ac-
16 count of others, or

17 “(iii) is engaged (or holding itself out
18 as being engaged) primarily in the business
19 of investing, reinvesting, or trading in se-
20 curities (as defined in section 475(e)(2))
21 without regard to the last sentence there-
22 of), partnership interests, commodities (as
23 defined in section 475(e)(2)), or any inter-
24 est (including a futures or forward con-

1 tract or option) in such securities, partner-
2 ship interests, or commodities.

3 “(C) FOREIGN ENTITY.—The term ‘foreign
4 entity’ means any entity which is not a United
5 States person.

6 “(d) EXCEPTION FOR CERTAIN PAYMENTS.—Sub-
7 section (a) shall not apply to any payment to the extent
8 that the beneficial owner of such payment is—

9 “(1) any foreign government, any political sub-
10 division of a foreign government, or any wholly
11 owned agency or instrumentality of any one or more
12 of the foregoing,

13 “(2) any international organization or any
14 wholly owned agency or instrumentality thereof,

15 “(3) any foreign central bank of issue, or

16 “(4) any other class of persons identified by the
17 Secretary for purposes of this subsection as posing
18 a low risk of tax evasion.

19 “(e) CONFIDENTIALITY OF INFORMATION.—For pur-
20 poses of this section, rules similar to the rules of section
21 3406(f) shall apply.

22 “(f) COORDINATION WITH OTHER WITHHOLDING
23 PROVISIONS.—The Secretary shall provide for the coordi-
24 nation of this section with other withholding provisions
25 under this title, including providing for the proper cred-

1 iting of amounts deducted and withheld under this section
 2 against amounts required to be deducted and withheld
 3 under such other provisions.

4 “(g) REGULATIONS.—The Secretary shall prescribe
 5 such regulations or other guidance as may be necessary
 6 or appropriate to carry out the purposes of, and prevent
 7 the avoidance of, this section.”.

8 (b) CONFORMING AMENDMENT.—The table of sec-
 9 tions for subchapter A of chapter 3 is amended by adding
 10 at the end the following new item:

“Sec. 1447. Withholdable payments to certain foreign financial accounts.”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to payments made after December
 13 31, 2010.

14 **Subtitle B—Requiring Economic** 15 **Substance**

16 **SEC. 411. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-** 17 **TRINE.**

18 (a) IN GENERAL.—Section 7701 is amended by re-
 19 designating subsection (o) as subsection (p) and by insert-
 20 ing after subsection (n) the following new subsection:

21 “(o) CLARIFICATION OF ECONOMIC SUBSTANCE
 22 DOCTRINE; ETC.—

23 “(1) GENERAL RULES.—

24 “(A) IN GENERAL.—In any case in which
 25 a court determines that the economic substance

1 doctrine is relevant for purposes of this title to
2 a transaction (or series of transactions), such
3 transaction (or series of transactions) shall have
4 economic substance only if the requirements of
5 this paragraph are met.

6 “(B) DEFINITION OF ECONOMIC SUB-
7 STANCE.—For purposes of subparagraph (A)—

8 “(i) IN GENERAL.—A transaction has
9 economic substance only if—

10 “(I) the transaction changes in a
11 meaningful way (apart from Federal
12 tax effects) the taxpayer’s economic
13 position, and

14 “(II) subject to clause (iii), the
15 taxpayer has a substantial purpose
16 (other than a Federal tax purpose) for
17 entering into such transaction.

18 “(ii) SPECIAL RULE WHERE TAX-
19 PAYER RELIES ON PROFIT POTENTIAL.—A
20 transaction shall not be treated as having
21 economic substance solely by reason of
22 having a potential for profit unless the
23 present value of the reasonably expected
24 pre-Federal tax profit from the transaction
25 is substantial in relation to the present

1 value of the expected net Federal tax bene-
2 fits that would be allowed if the trans-
3 action were respected. In determining pre-
4 Federal tax profit, there shall be taken
5 into account fees and other transaction ex-
6 penses and to the extent provided by the
7 Secretary, foreign taxes.

8 “(iii) SPECIAL RULES FOR DETER-
9 MINING WHETHER NON-FEDERAL TAX
10 PURPOSE.—For purposes of clause
11 (i)(II)—

12 “(I) a purpose of achieving a fi-
13 nancial accounting benefit shall not be
14 taken into account in determining
15 whether a transaction has a substan-
16 tial purpose (other than a Federal tax
17 purpose) if the origin of such financial
18 accounting benefit is a reduction of
19 Federal tax, and

20 “(II) the taxpayer shall not be
21 treated as having a substantial pur-
22 pose (other than a Federal tax pur-
23 pose) with respect to a transaction if
24 the only such purpose is the reduction
25 of non-Federal taxes and the trans-

1 action will result in a reduction of
2 Federal taxes substantially equal to,
3 or greater than, the reduction in non-
4 Federal taxes because of similarities
5 between the laws imposing the taxes.

6 “(2) DEFINITIONS AND SPECIAL RULES.—For
7 purposes of this subsection—

8 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
9 The term ‘economic substance doctrine’ means
10 the common law doctrine under which tax bene-
11 fits under subtitle A with respect to a trans-
12 action are not allowable if the transaction does
13 not have economic substance or lacks a business
14 purpose.

15 “(B) EXCEPTION FOR PERSONAL TRANS-
16 ACTIONS OF INDIVIDUALS.—In the case of an
17 individual, this subsection shall apply only to
18 transactions entered into in connection with a
19 trade or business or an activity engaged in for
20 the production of income.

21 “(3) OTHER PROVISIONS NOT AFFECTED.—Ex-
22 cept as specifically provided in this subsection, the
23 provisions of this subsection shall not be construed
24 as altering or supplanting any other rule of law or
25 provision of this title, and the requirements of this

1 subsection shall be construed as being in addition to
 2 any such other rule of law or provision of this title.

3 “(4) REGULATIONS.—The Secretary shall pre-
 4 scribe such regulations as may be necessary or ap-
 5 propriate to carry out the purposes of this sub-
 6 section. Such regulations may include exemptions
 7 from the application of this subsection.”.

8 (b) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to transactions entered into after
 10 the date of the enactment of this Act.

11 **SEC. 412. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 12 **UTABLE TO TRANSACTIONS LACKING ECO-**
 13 **NOMIC SUBSTANCE, ETC.**

14 (a) IN GENERAL.—Subchapter A of chapter 68 is
 15 amended by inserting after section 6662A the following
 16 new section:

17 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
 18 **UTABLE TO TRANSACTIONS LACKING ECO-**
 19 **NOMIC SUBSTANCE, ETC.**

20 “(a) IMPOSITION OF PENALTY.—If a taxpayer has an
 21 noneconomic substance transaction understatement for
 22 any taxable year, there shall be added to the tax an
 23 amount equal to 30 percent of the amount of such under-
 24 statement.

1 “(b) REDUCTION OF PENALTY FOR DISCLOSED
2 TRANSACTIONS.—Subsection (a) shall be applied by sub-
3 stituting ‘20 percent’ for ‘30 percent’ with respect to the
4 portion of any noneconomic substance transaction under-
5 statement with respect to which the relevant facts affect-
6 ing the tax treatment of the item are adequately disclosed
7 in the return or a statement attached to the return.

8 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-
9 DERSTATEMENT.—For purposes of this section—

10 “(1) IN GENERAL.—The term ‘noneconomic
11 substance transaction understatement’ means any
12 amount which would be an understatement under
13 section 6662A(b)(1) if section 6662A were applied
14 by taking into account items attributable to non-
15 economic substance transactions rather than items
16 to which section 6662A would apply without regard
17 to this paragraph.

18 “(2) NONECONOMIC SUBSTANCE TRANS-
19 ACTION.—The term ‘noneconomic substance trans-
20 action’ means any transaction if there is a lack of
21 economic substance (within the meaning of section
22 7701(o)(1)(B)) for the transaction giving rise to the
23 claimed benefit.

24 “(d) RULES APPLICABLE TO ASSERTION, COM-
25 PROMISE, AND COLLECTION OF PENALTY.—

1 “(1) IN GENERAL.—Only the Chief Counsel for
2 the Internal Revenue Service may assert a penalty
3 imposed under this section or may compromise all or
4 any portion of such penalty. The Chief Counsel may
5 delegate the authority under this paragraph only to
6 an individual holding the position of chief of a
7 branch within the Office of the Chief Counsel for the
8 Internal Revenue Service.

9 “(2) SPECIFIC REQUIREMENTS.—

10 “(A) ASSERTION OF PENALTY.—The Chief
11 Counsel for the Internal Revenue Service (or
12 the Chief Counsel’s delegate under paragraph
13 (1)) shall not assert a penalty imposed under
14 this section unless, before the assertion of the
15 penalty, the taxpayer is provided—

16 “(i) a notice of intent to assert the
17 penalty, and

18 “(ii) an opportunity to provide to the
19 Commissioner (or the Chief Counsel’s dele-
20 gate under paragraph (1)) a written re-
21 sponse to the proposed penalty within a
22 reasonable period of time after such notice.

23 “(B) COMPROMISE OF PENALTY.—A com-
24 promise shall not result in a reduction in the
25 penalty imposed by this section in an amount

1 greater than the amount which bears the same
2 ratio to the amount of the penalty determined
3 without regard to the compromise as—

4 “(i) the reduction under the com-
5 promise in the noneconomic substance
6 transaction understatement to which the
7 penalty relates, bears to

8 “(ii) the amount of the noneconomic
9 substance transaction understatement de-
10 termined without regard to the com-
11 promise.

12 “(3) RULES RELATING TO RELEVANCY RE-
13 QUIREMENT.—

14 “(A) DETERMINATION OF RELEVANCE BY
15 CHIEF COUNSEL.—The Chief Counsel for the
16 Internal Revenue Service (or the Chief Coun-
17 sel’s delegate under paragraph (1)) may assert,
18 compromise, or collect a penalty imposed by
19 this section with respect to a noneconomic sub-
20 stance transaction even if there has not been a
21 court determination that the economic sub-
22 stance doctrine was relevant for purposes of
23 this title to the transaction if the Chief Counsel
24 (or delegate) determines that either was so rel-
25 evant.

1 “(B) FINAL ORDER OF COURT.—If there is
2 a final order of a court that determines that the
3 economic substance doctrine was not relevant
4 for purposes of this title to a transaction (or se-
5 ries of transactions), any penalty imposed under
6 this section with respect to the transaction (or
7 series of transactions) shall be rescinded.

8 “(4) APPLICABLE RULES.—The rules of para-
9 graphs (2) and (3) of section 6707A(d) shall apply
10 to a compromise under paragraph (1).

11 “(e) COORDINATION WITH OTHER PENALTIES.—Ex-
12 cept as otherwise provided in this part, the penalty im-
13 posed by this section shall be in addition to any other pen-
14 alty imposed by this title.

15 “(f) CROSS REFERENCES.—

16 “(1) For coordination of penalty with under-
17 statements under section 6662 and other special
18 rules, see section 6662A(e).

19 “(2) For reporting of penalty imposed under
20 this section to the Securities and Exchange Commis-
21 sion, see section 6707A(e).”.

22 (b) COORDINATION WITH OTHER UNDERSTATE-
23 MENTS AND PENALTIES.—

24 (1) The second sentence of section
25 6662(d)(2)(A) is amended by inserting “and without

1 regard to items with respect to which a penalty is
2 imposed by section 6662B” before the period at the
3 end.

4 (2) Subsection (e) of section 6662A is amend-
5 ed—

6 (A) in paragraph (1), by inserting “and
7 noneconomic substance transaction understate-
8 ments” after “reportable transaction under-
9 statements” both places it appears,

10 (B) in paragraph (2)(A)—

11 (i) by inserting “6662B or” before
12 “6663” in the text, and

13 (ii) by striking “PENALTY” in the
14 heading and inserting “AND ECONOMIC
15 SUBSTANCE PENALTIES”,

16 (C) in paragraph (2)(B)—

17 (i) by inserting “and section 6662B”
18 after “This section”, and

19 (ii) by striking “PENALTY” in the
20 heading and inserting “AND ECONOMIC
21 SUBSTANCE PENALTIES”,

22 (D) in paragraph (3), by inserting “or
23 noneconomic substance transaction understate-
24 ment” after “reportable transaction understate-
25 ment”, and

1 (E) by adding at the end the following new
2 paragraph:

3 “(4) NONECONOMIC SUBSTANCE TRANSACTION
4 UNDERSTATEMENT.—For purposes of this sub-
5 section, the term ‘noneconomic substance trans-
6 action understatement’ has the meaning given such
7 term by section 6662B(c).”.

8 (3) Subsection (e) of section 6707A is amend-
9 ed—

10 (A) by striking “or” at the end of subpara-
11 graph (B), and

12 (B) by striking subparagraph (C) and in-
13 serting the following new subparagraphs:

14 “(C) is required to pay a penalty under
15 section 6662B with respect to any noneconomic
16 substance transaction, or

17 “(D) is required to pay a penalty under
18 section 6662(h) with respect to any transaction
19 and would (but for section 6662A(e)(2)(B))
20 have been subject to penalty under section
21 6662A at a rate prescribed under section
22 6662A(c) or to penalty under section 6662B,”.

23 (c) CLERICAL AMENDMENT.—The table of sections
24 for part II of subchapter A of chapter 68 is amended by

1 inserting after the item relating to section 6662A the fol-
2 lowing new item:

“Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to transactions entered into after
5 the date of the enactment of this Act.

6 **SEC. 413. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
7 **DERPAYMENTS ATTRIBUTABLE TO NON-**
8 **ECONOMIC SUBSTANCE TRANSACTIONS.**

9 (a) **IN GENERAL.**—Section 163(m) (relating to inter-
10 est on unpaid taxes attributable to nondisclosed reportable
11 transactions) is amended—

12 (1) by striking “attributable” and all that fol-
13 lows and inserting the following: “attributable to—

14 “(1) the portion of any reportable transaction
15 understatement (as defined in section 6662A(b))
16 with respect to which the requirement of section
17 6664(d)(2)(A) is not met, or

18 “(2) any noneconomic substance transaction
19 understatement (as defined in section 6662B(c)).”,
20 and

21 (2) by inserting “**AND NONECONOMIC SUB-**
22 **STANCE TRANSACTIONS**” in the heading thereof
23 after “**TRANSACTIONS**”.

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to transactions after the date of
 3 the enactment of this Act in taxable years ending after
 4 such date.

5 **Subtitle C—Internet Gambling**
 6 **Taxation and Regulation**

7 **SEC. 421. TAX ON INTERNET GAMBLING; LICENSEE INFOR-**
 8 **MATION REPORTING.**

9 (a) IN GENERAL.—Chapter 36 (relating to certain
 10 other excise taxes) is amended by adding at the end the
 11 following new subchapter:

12 **“Subchapter E—Internet Gambling**

“Sec. 4491. Imposition of Internet gambling license fee.

“Sec. 4492. Record requirements.

13 **“SEC. 4491. IMPOSITION OF INTERNET GAMBLING LICENSE**
 14 **FEE.**

15 “(a) FEDERAL FEE.—Each licensee within the mean-
 16 ing of section 5382 of title 31, United States Code, shall
 17 be required to pay an Internet gambling license fee by the
 18 end of each calendar month in an amount equal to two
 19 percent of all funds deposited by customers during the
 20 preceding month into an account maintained by that li-
 21 censee or any agent of that licensee that can be used for
 22 the purpose of placing a bet or wager as defined in section
 23 5362(1) of title 31, United States Code.

1 “(b) DEPOSITS.—Deposits made by or on behalf of
2 a licensee of Internet gambling winnings or returns of
3 funds by or on behalf of a licensee to the account of a
4 customer shall not be treated as a deposit for purposes
5 of this section.

6 “(c) PERSONS LIABLE FOR FEE.—The Internet gam-
7 bling license fee shall be the direct and exclusive obligation
8 of the Internet gambling operator and may not be de-
9 ducted from the amounts available as deposits to the per-
10 son placing a bet. Notwithstanding the foregoing, any per-
11 son making a deposit for the purpose of placing a bet or
12 wager with a person who is required but has failed to ob-
13 tain a license pursuant to subchapter V of chapter 53 of
14 title 31, United States Code, shall be liable for and pay
15 the fee under this subchapter on all such deposits, but
16 such liability shall not excuse any failure to pay the fee
17 on the part of the person who is required but has failed
18 to obtain such license.

19 “(d) UNAUTHORIZED BETS OR WAGERS.—There is
20 hereby imposed a fee in an amount equal to 50 percent
21 of all funds deposited into an account that can be used
22 for placing a bet or wager within the meaning of Section
23 5362(1) of title 31, United States Code, with any person
24 that is not authorized pursuant to section 5382 of that

1 title. Such tax is due by the end of each calendar month
2 with respect to deposits during the preceding month.

3 “(e) DISPOSITION.—Amounts paid as Internet gam-
4 bling license fees or on unauthorized bets or wagers under
5 this section shall be deposited in the general fund of the
6 Treasury and treated as revenue.

7 “(f) ADMINISTRATIVE PROVISIONS.—Except to the
8 extent the Secretary shall by regulations prescribe, the
9 fees imposed by this section shall be subject to the admin-
10 istrative provisions of this title applicable to excise taxes
11 imposed by chapter 35.

12 **“SEC. 4492. RECORD REQUIREMENTS.**

13 “Each person liable for fees under this subchapter,
14 except for a person making a deposit who is liable for fees
15 pursuant to section 4491(e), shall keep a daily record
16 showing deposits as defined in this subchapter, in addition
17 to all other records required pursuant to section
18 6001(a).”.

19 (b) INFORMATION RETURNS.—Subpart A of part III
20 of subchapter A of chapter 61 (relating to information
21 concerning persons subject to special provisions) is amend-
22 ed by adding at the end the following new section:

23 **“SEC. 6050X. RETURNS RELATING TO INTERNET GAMBLING.**

24 “(a) REQUIREMENT.—Every person who is a licensee
25 (within the meaning of section 5382(3) of title 31, United

1 States Code) or who otherwise is engaged in the business
2 of accepting any bet or wager within the meaning of sec-
3 tion 5362(1) of title 31, United States Code, during a tax-
4 able year shall furnish, at such time and in such manner
5 as the Secretary shall by regulations prescribe, the infor-
6 mation described in subsection (b), and such person shall
7 maintain (in the location, in the manner, and to the extent
8 prescribed in regulations) such records as may be appro-
9 priate to the information described in subsection (b).

10 “(b) REQUIRED INFORMATION.—For purposes of
11 subsection (a), the information described is set forth
12 below, which information may be modified as appropriate
13 by the Secretary through regulation—

14 “(1) the name, address, and TIN of the licensee
15 or other person engaged in the business of accepting
16 any bet or wager,

17 “(2) the name, address, and TIN of each per-
18 son placing a bet or wager with the licensee or other
19 person engaged in the business of accepting any bet
20 or wager during the calendar year,

21 “(3) the gross winnings, gross wagers, and
22 gross losses for the calendar year of each person
23 placing a bet or wager with the licensee or other per-
24 son engaged in the business of accepting any bet or
25 wager during the year,

1 “(4) the net Internet gambling winnings for
2 each such person for the calendar year,

3 “(5) the amount of tax withheld with respect to
4 each such person for the calendar year,

5 “(6) beginning and end-of-year account bal-
6 ances for each such person for the calendar year,
7 and

8 “(7) amounts deposited and withdrawn by each
9 such person during the calendar year.

10 “(c) STATEMENT TO BE FURNISHED TO PERSONS
11 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

12 Every person required to make a return under subsection
13 (a) shall furnish to each person whose name is required
14 to be set forth in such return by reason of placing a bet
15 or wager a written statement showing—

16 “(1) the name, address, and phone number of
17 the information contact of the person required to
18 make such return, and

19 “(2) the information required to be shown on
20 such return with respect to each person whose name
21 is required to be set forth in such return.

22 The written statement required under the preceding sen-
23 tence shall be furnished to the person on or before Janu-
24 ary 31 of the year following the calendar year for which
25 the return under subsection (a) was required to be made.

1 “(d) DEFINITIONS.—

2 “(1) NET INTERNET GAMBLING WINNINGS.—

3 The term ‘net Internet gambling winnings’ means
4 gross winnings from wagers placed over the Internet
5 with a person required to be licensed under section
6 5382 of chapter 53 of title 31, United States Code,
7 less the amounts wagered.

8 “(2) INTERNET; WAGER.—The terms ‘Internet’
9 and ‘wager’ shall have the respective meanings given
10 such terms by section 5362 of chapter 53 of title 31,
11 United States Code.”.

12 (c) CLERICAL AMENDMENTS.—

13 (1) The table of subchapters for chapter 36 is
14 amended by adding at the end the following new
15 item:

“SUBCHAPTER E. INTERNET GAMBLING.”.

16 (2) The table of sections for subpart B of part
17 III of subchapter A of chapter 61 is amended by in-
18 serting after the item relating to section 6050W the
19 following new item:

“Sec. 6050X. Returns relating to Internet gambling.”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to bets or wagers placed after the
22 date of the enactment of this Act.

1 **SEC. 422. WITHHOLDING FROM CERTAIN GAMBLING**
2 **WINNINGS.**

3 (a) NET INTERNET GAMBLING WINNINGS.—Para-
4 graph (3) of section 3406(b) (relating to other reportable
5 payments for purposes of backup withholding) is amend-
6 ed—

7 (1) by striking “or” in subparagraph (E);

8 (2) by striking “.” and inserting “, or” at the
9 end of subparagraph (F); and

10 (3) by adding at the end thereof the following
11 new subparagraph:

12 “(G) section 6050X(b)(4) (relating to net
13 Internet gambling winnings).”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to bets or wagers placed after the
16 date of the enactment of this Act.

17 **SEC. 423. WITHHOLDING OF TAX ON NONRESIDENT ALIENS.**

18 (a) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—
19 Paragraph (1) of section 871(a) (relating to income not
20 connected with United States business) is amended—

21 (1) by striking “and” at the end of subpara-
22 graph (C),

23 (2) by inserting “and” at the end of subpara-
24 graph (D), and

25 (3) by inserting after subparagraph (D) the fol-
26 lowing new subparagraph:

1 “(E) the gross amount of winnings from
2 each wager placed over the Internet with a per-
3 son required to be licensed under section 5382
4 of chapter 53 of title 31, United States Code
5 (as such terms are defined in section
6 6050X(d)(2)),”.

7 (b) EXEMPTION FOR CERTAIN GAMBLING
8 WINNINGS.—Section 871(j) (relating to exemption for cer-
9 tain gambling winnings) is amended by inserting before
10 the period at the end the following: “or to any bets or
11 wagers placed over the Internet (as such terms are defined
12 in section 6050X(d)(2))”.

13 (c) WITHHOLDING OF TAX ON NONRESIDENT ALIEN
14 INDIVIDUALS.—The first sentence of subsection (b) of sec-
15 tion 1441 (relating to withholding of tax on nonresident
16 aliens) is amended by inserting after “gains subject to tax
17 under section 871(a)(1)(D),” the following: “the gross
18 amount of winnings from wagers placed over the Internet
19 described in section 871(a)(1)(E),”.

20 (d) SOURCE OF INTERNET GAMBLING WINNINGS.—
21 Subsection (a) of section 861 is amending by inserting at
22 the end thereof the following new paragraph:

23 “(9) INTERNET GAMBLING WINNINGS.—Any
24 Internet gambling winnings received from a licensee

1 within the meaning of section 5382(3) of title 31,
2 United States Code.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to bets or wagers placed after the
5 date of the enactment of this Act.

6 **SEC. 424. TERRITORIAL EXTENT.**

7 Paragraph (2) of section 4404 is amended to read
8 as follows:

9 “(2) placed within the United States or any
10 Commonwealth, territory, or possession thereof by a
11 United States citizen or resident.”.

12 **SEC. 425. FEDERAL LICENSING REQUIREMENT FOR INTER-**
13 **NET GAMBLING OPERATORS.**

14 (a) IN GENERAL.—Chapter 53 of title 31, United
15 States Code, is amended by adding at the end the fol-
16 lowing new subchapter:

17 “SUBCHAPTER V—REGULATION OF LAWFUL
18 INTERNET GAMBLING

19 “§ 5381. Congressional findings

20 “The Congress finds the following:

21 “(1) Since the development of the Internet, mil-
22 lions of people have chosen to gamble online, and
23 today Internet gambling is offered by operators lo-
24 cated in many different countries under a variety of
25 licensing and regulatory regimes.

1 “(2) Despite the increasing use of the Internet
2 for gambling by persons in the United States, there
3 is no Federal or State regulatory regime in place to
4 protect United States citizens who choose to engage
5 in this interstate activity, or to oversee operators to
6 establish and enforce standards of integrity and fair-
7 ness.

8 “(3) In the United States, gambling activities,
9 equipment, and operations have been subject to var-
10 ious forms of Federal and State control, regulation,
11 and enforcement, with some form of gambling being
12 permitted in nearly every State and by many Indian
13 tribes.

14 “(4) Internet gambling in the United States
15 should be controlled by a strict Federal licensing and
16 regulatory framework to protect underage and other-
17 wise vulnerable individuals, to ensure the games are
18 fair, to address the concerns of law enforcement,
19 and to enforce any limitations on the activity estab-
20 lished by the States and Indian tribes.

21 “(5) An effective Federal licensing system
22 would ensure that licenses are issued only to Inter-
23 net gambling operators which meet strict criteria to
24 protect consumers, and which—

1 “(A) are in good financial and legal stand-
2 ing, and of good character, honesty, and integ-
3 rity;

4 “(B) utilize appropriate technology to de-
5 termine the age and location of users;

6 “(C) adopt and implement systems to pro-
7 tect minors and problem gamblers;

8 “(D) adopt and implement systems to en-
9 force any applicable Federal, State, and Indian
10 tribe limitations on Internet gambling; and

11 “(E) have in place risk-based methods to
12 identify and combat money laundering and
13 fraud relating to Internet gambling, and to pro-
14 tect the privacy and security of users.

15 “(6) There is a need to extend the regulatory
16 provisions of this Act to all persons, locations, equip-
17 ment, practices, and associations related to Internet
18 gambling, with each State and Indian tribe having
19 the ability to limit Internet gambling operators from
20 offering Internet gambling to persons located within
21 its territory by opting out of the provisions of this
22 Act.

23 **“§ 5382. Definitions**

24 “For purposes of this subchapter, the following defi-
25 nitions shall apply:

1 “(1) APPLICANT.—The term ‘applicant’ means
2 any person who has applied for a license pursuant
3 to this subchapter.

4 “(2) BET OR WAGER.—The term ‘bet or wager’
5 has the same meaning as in section 5362(1).

6 “(3) ENFORCEMENT AGENT.—The term ‘en-
7 forcement agent’ means any individual authorized by
8 the Secretary to enforce the provisions of this sub-
9 chapter and regulations prescribed under this sub-
10 chapter.

11 “(4) INDIAN LANDS AND INDIAN TRIBE.—The
12 terms ‘Indian lands’ and ‘Indian tribe’ have the
13 same meanings as in section 4 of the Indian Gaming
14 Regulatory Act.

15 “(5) INTERNET.—The term ‘Internet’ has the
16 same meaning as in section 5362(5).

17 “(6) LICENSEE.—The term ‘licensee’ means an
18 entity authorized to operate an Internet gambling
19 facility in accordance with this subchapter.

20 “(7) OPERATE AN INTERNET GAMBLING FACIL-
21 ITY.—The term ‘operate an Internet gambling facil-
22 ity’ or ‘operation of an Internet gambling facility’
23 means the direction, management, supervision, or
24 control of an Internet site through which bets or wa-
25 gers are initiated, received, or otherwise made,

1 whether by telephone, Internet, satellite, or other
2 wire or wireless communication.

3 “(8) SECRETARY.—The term ‘Secretary’ means
4 the Secretary of the Treasury, or any person des-
5 ignated by the Secretary.

6 “(9) STATE.—The term ‘State’ means any
7 State of the United States, the District of Columbia,
8 or any commonwealth, territory, or other possession
9 of the United States.

10 “(10) SPORTING EVENT.—The term ‘sporting
11 event’ means any athletic competition, whether pro-
12 fessional, scholastic, or amateur.

13 **“§ 5383. Establishment and administration of licens-**
14 **ing program**

15 “(a) TREASURY RESPONSIBILITIES.—The Secretary
16 shall have responsibility for the following activities:

17 “(1) Exercising full regulatory jurisdiction
18 over—

19 “(A) the operation of Internet gambling fa-
20 cilities by licensees; and

21 “(B) the licensure of all applicants.

22 “(2) Prescribing such regulations as may be
23 necessary to administer and enforce the require-
24 ments of this subchapter.

1 “(3) Employing enforcement agents with suffi-
2 cient training and experience to administer the re-
3 quirements of this subchapter and the regulations
4 prescribed under this subchapter.

5 “(4) Enforcing the requirements of this sub-
6 chapter through all appropriate means provided
7 under this subchapter and other provisions of law.

8 “(b) INTERNET GAMBLING LICENSING PROGRAM.—

9 “(1) LICENSING REQUIRED FOR CERTAIN
10 INTERNET GAMBLING.—No person may operate an
11 Internet gambling facility that knowingly accepts
12 bets or wagers from persons located in the United
13 States without a license issued by the Secretary in
14 accordance with this subchapter.

15 “(2) AUTHORITY UNDER VALID LICENSE.—A li-
16 censee may accept bets or wagers from persons lo-
17 cated in the United States, subject to the limitations
18 set forth in this subchapter, so long as its license re-
19 mains in good standing.

20 “(c) APPLICATION FOR LICENSE.—

21 “(1) IN GENERAL.—Any person seeking author-
22 ity to operate an Internet gambling facility offering
23 services to persons in the United States may apply
24 for a license issued by the Secretary.

1 “(2) INFORMATION REQUIRED.—Any applica-
2 tion for a license under this subchapter shall contain
3 such information as may be required by the Sec-
4 retary, including the following:

5 “(A) The criminal and credit history of the
6 applicant, any senior executive and director of
7 the applicant, and any person deemed to be in
8 control of the applicant.

9 “(B) The financial statements of the appli-
10 cant.

11 “(C) Documentation showing the corporate
12 structure of the applicant and all related busi-
13 nesses and affiliates.

14 “(D) Documentation containing detailed
15 evidence of the applicant’s plan for complying
16 with all applicable regulations should a license
17 be issued, with particular emphasis on the ap-
18 plicant’s ability to—

19 “(i) protect underage and problem
20 gamblers;

21 “(ii) ensure games are being operated
22 fairly; and

23 “(iii) comply with and address the
24 concerns of law enforcement.

1 “(E) Certification that the applicant
2 agrees to submit to United States jurisdiction
3 and all applicable United States laws relating to
4 acceptance by the applicant of bets or wagers
5 over the Internet from persons located in the
6 United States and all associated activities.

7 “(d) STANDARDS FOR LICENSE ISSUANCE; SUIT-
8 ABILITY QUALIFICATIONS AND DISQUALIFICATION
9 STANDARDS.—

10 “(1) SUITABILITY FOR LICENSING STAND-
11 ARDS.—

12 “(A) IN GENERAL.—No person shall be eli-
13 gible to obtain a license unless the Secretary
14 has determined, upon completion of a back-
15 ground check and investigation, that the appli-
16 cant, and any person deemed to be in control
17 of the applicant, is suitable for licensing.

18 “(B) ASSOCIATES OF APPLICANTS.—If the
19 applicant is a corporation, partnership, or other
20 business entity, a background check and inves-
21 tigation shall occur with respect to the presi-
22 dent or other chief executive of the corporation,
23 partnership, or other business entity and other
24 partners or senior executives and directors of
25 the corporation, partnership, or entity, as deter-

1 mined appropriate by the Secretary, in the Sec-
2 retary's sole discretion.

3 “(C) BACKGROUND CHECK AND INVES-
4 TIGATION.—The Secretary shall establish
5 standards and procedures for conducting back-
6 ground checks and investigations for purposes
7 of this subsection.

8 “(2) SUITABILITY FOR LICENSING STANDARDS
9 DESCRIBED.—For purposes of this subchapter, an
10 applicant and any other person associated with the
11 applicant, as applicable, is suitable for licensing if
12 the applicant demonstrates to the Secretary by clear
13 and convincing evidence that the applicant (or indi-
14 vidual associated with the applicant, as applicable)—

15 “(A) is a person of good character, hon-
16 esty, and integrity;

17 “(B) is a person whose prior activities,
18 reputation, habits, and associations do not—

19 “(i) pose a threat to the public inter-
20 est or to the effective regulation and con-
21 trol of the licensed activities; or

22 “(ii) create or enhance the dangers of
23 unsuitable, unfair, or illegal practices,
24 methods, and activities in the conduct of
25 the licensed activities or the carrying on of

1 the business and financial arrangements
2 incidental to such activities;

3 “(C) is capable of and likely to conduct the
4 activities for which the applicant is licensed in
5 accordance with the provisions of this sub-
6 chapter and any regulations prescribed under
7 this subchapter;

8 “(D) has or guarantees acquisition of ade-
9 quate business competence and experience in
10 the operation of Internet gambling facilities;
11 and

12 “(E) has or will obtain sufficient financing
13 for the nature of the proposed operation and
14 from a suitable source.

15 “(3) UNSUITABLE FOR LICENSING.—An appli-
16 cant or any other person may not be determined to
17 be suitable for licensing within the meaning of this
18 subchapter if the applicant or such person—

19 “(A) has failed to provide information and
20 documentation material to a determination of
21 suitability for licensing under paragraph (1);

22 “(B) has supplied information which is un-
23 true or misleading as to a material fact per-
24 taining to any such determination;

1 “(C) has been convicted of an offense pun-
2 ishable by imprisonment of more than 1 year;
3 or

4 “(D) is delinquent in filing any applicable
5 Federal or State tax returns or in the payment
6 of any taxes, penalties, additions to tax, or in-
7 terest owed to a State or the United States.

8 “(4) ONGOING REQUIREMENT.—A licensee (and
9 any other person who is required to be determined
10 to be suitable for licensing in connection with such
11 licensee) shall meet the standards necessary to be
12 suitable for licensing throughout the term of the li-
13 cense.

14 “(5) PROTECTION OF THE PUBLIC TRUST.—
15 The Secretary may take such action as is necessary
16 to protect the public trust, including the implemen-
17 tation of such safeguards as may be necessary to en-
18 sure the operation of an Internet gambling facility
19 licensed under this subchapter is controlled only by
20 persons who are suitable for licensing.

21 “(6) ENFORCEMENT ACTIONS.—

22 “(A) DETERMINATION OF UNSUITABILITY
23 FOR CONTINUED LICENSURE.—If the Secretary
24 finds that an individual owner or holder of a se-
25 curity of a licensee, or of a holding or inter-

1 mediary company of a licensee or any person
2 with an economic interest in a licensee or a di-
3 rector, partner, or officer of a licensee is not
4 suitable for licensing, the Secretary may deter-
5 mine that the licensee is not qualified to con-
6 tinue as a licensee.

7 “(B) ACTION TO PROTECT THE PUBLIC IN-
8 TEREST, INCLUDING SUSPENSION.—If the Sec-
9 retary may determine that the licensee is not
10 qualified to continue as a licensee, the Secretary
11 shall propose action necessary to protect the
12 public interest, including, if deemed necessary,
13 the suspension of the licensee.

14 “(C) IMPOSITION OF CONDITIONS INCLUD-
15 ING REMOVAL OF PARTIES.—Notwithstanding a
16 determination under subparagraph (A), the
17 Secretary may allow a licensee to continue en-
18 gaging in licensed activities by imposing condi-
19 tions on the licensee under penalty of revocation
20 or suspension of a license, including—

21 “(i) the identification of any person
22 determined to be unsuitable for licensing;
23 and

24 “(ii) the establishment of appropriate
25 safeguards to ensure such person is ex-

1 cluded from any interest in the licensed ac-
2 tivities.

3 “(e) ASSESSMENTS FOR ADMINISTRATIVE EX-
4 PENSES.—

5 “(1) USER FEES.—

6 “(A) IN GENERAL.—The cost of admin-
7 istering this subchapter with respect to each li-
8 censee, including the cost of any review or ex-
9 amination of a licensee to ensure compliance
10 with the terms of the license and this sub-
11 chapter, shall be assessed by the Secretary
12 against the licensee institution by written notice
13 in an amount appropriate to meet the Sec-
14 retary’s expenses in carrying out such adminis-
15 tration, review, or examination.

16 “(B) DISPOSITION.—Amounts assessed by
17 the Secretary as user fees under subparagraph
18 (A) shall—

19 “(i) be maintained by the Secretary
20 solely for use in accordance with clause
21 (ii);

22 “(ii) be available to the Secretary to
23 cover all expenses incurred by the Sec-
24 retary in carrying out this subchapter; and

1 “(iii) not be construed to be Govern-
2 ment funds or appropriated monies, or
3 subject to apportionment for the purposes
4 of chapter 15 or any other authority.

5 “(C) HEARING.—Any licensee against
6 whom an assessment is assessed under this
7 paragraph shall be afforded an agency hearing
8 if such person submits a request for such hear-
9 ing within 20 days after the issuance of the no-
10 tice of assessment.

11 “(D) COLLECTION.—

12 “(i) REFERRAL.—If any licensee fails
13 to pay an assessment under this paragraph
14 after the assessment has become final, the
15 Secretary shall recover the amount as-
16 sessed by action in the appropriate United
17 States district court.

18 “(ii) APPROPRIATENESS OF ASSESS-
19 MENT NOT REVIEWABLE.—In any civil ac-
20 tion under clause (i), the validity and ap-
21 propriateness of the assessment shall not
22 be subject to review.

23 “(2) DIRECT AND EXCLUSIVE OBLIGATION OF
24 LICENSEE.—The user fee shall be the direct and ex-
25 clusive obligation of the licensee and may not be de-

1 ducted from amounts available as deposits to any
2 person placing a bet.

3 “(f) APPROVAL OF LICENSE.—The Secretary shall
4 grant licenses under this subchapter if the applicant meets
5 the criteria set by the Secretary set forth in this sub-
6 chapter and in any regulations promulgated thereunder.

7 “(g) SAFEGUARDS REQUIRED OF LICENSEE.—No
8 person shall receive or retain a license under this section
9 unless the person maintains or requires mechanisms so
10 that the following requirements, and the standards estab-
11 lished under section 5384, are met with respect to any
12 Internet bet or wager:

13 “(1) LEGAL AGE.—Appropriate safeguards to
14 ensure that the individual placing a bet or wager is
15 of legal age as defined by the law of the State or
16 tribal area in which the individual is located at the
17 time the bet or wager is placed.

18 “(2) PERMISSIBLE LOCATION.—Appropriate
19 safeguards to ensure that the individual placing a
20 bet or wager is physically located in a jurisdiction
21 that permits Internet gambling at the time the bet
22 or wager is placed.

23 “(3) COLLECTION OF CUSTOMER TAXES.—Ap-
24 propriate mechanisms to ensure that all taxes relat-
25 ing to Internet gambling from persons engaged in

1 Internet gambling are collected at the time of any
2 payment of any proceeds of Internet gambling.

3 “(4) COLLECTION OF TAXES OF LICENSEE.—
4 Appropriate mechanisms to ensure that all taxes re-
5 lating to Internet gambling from any licensee are
6 collected and disbursed as required by law, and that
7 adequate records to enable later audit or verification
8 are maintained.

9 “(5) SAFEGUARDS AGAINST FINANCIAL
10 CRIME.—Appropriate safeguards to combat fraud,
11 money laundering, and terrorist finance.

12 “(6) SAFEGUARDS AGAINST COMPULSIVE GAM-
13 BLING.—Appropriate safeguards to combat compul-
14 sive Internet gambling.

15 “(7) PRIVACY SAFEGUARDS.—Appropriate safe-
16 guards to protect the privacy and security of any
17 person engaged in Internet gambling.

18 “(8) PAYMENT OF ASSESSMENTS.—Appropriate
19 mechanisms to ensure that any assessment under
20 subsection (e) is paid to the Secretary.

21 “(9) OTHER REQUIREMENTS.—Such other re-
22 quirements as the Secretary may establish by regula-
23 tion or order.

24 “(h) TERM AND RENEWAL OF LICENSE.—

1 “(1) TERM.—Any license issued under this sec-
2 tion shall be issued for a 5-year term beginning on
3 the date of issuance.

4 “(2) RENEWAL.—Licenses may be renewed in
5 accordance with the requirements prescribed by the
6 Secretary pursuant to this subchapter.

7 “(i) REVOCATION OF LICENSE.—

8 “(1) IN GENERAL.—Any license granted under
9 this subchapter may be revoked by the Secretary
10 if—

11 “(A) the licensee fails to comply with any
12 provision of this subchapter; or

13 “(B) the licensee is determined to be un-
14 suitable for licensing, within the meaning of
15 this subchapter.

16 “(2) FINAL ACTION.—Any revocation of a li-
17 cense under paragraph (1) shall be treated as a final
18 action by the Secretary.

19 “(j) REGULATIONS.—The regulations prescribed by
20 the Secretary under this subchapter shall include regula-
21 tions to fully implement—

22 “(1) safeguards required for licensees under
23 subsection (g); and

1 “(2) the requirements for programs relating to
2 the Problem Gambling, Responsible Gambling, and
3 Self-Exclusion Program under section 5384.

4 “(k) ADMINISTRATIVE PROVISIONS.—

5 “(1) GENERAL POWERS OF SECRETARY.—The
6 Secretary shall have the authority to engage in the
7 following:

8 “(A) Investigate the suitability of each ap-
9 plicant to ensure compliance with this sub-
10 chapter and regulations prescribed under this
11 subchapter.

12 “(B) Require licensees to maintain appro-
13 priate procedures to ensure compliance with
14 this subchapter and regulations prescribed
15 under this subchapter.

16 “(C) Examine any licensee and any books,
17 papers, records, or other data of licensees rel-
18 evant to any recordkeeping or reporting require-
19 ments imposed by the Secretary under this sub-
20 chapter.

21 “(D) When determined by the Secretary to
22 be necessary, summon a licensee or an appli-
23 cant for a license, an officer or employee of a
24 licensee or any such applicant (including a
25 former officer or employee), or any person hav-

1 ing possession, custody, or care of the reports
2 and records required by the Secretary under
3 this subchapter, to appear before the Secretary
4 or a designee of the Secretary at a time and
5 place named in the summons and to produce
6 such books, papers, records, or other data, and
7 to give testimony, under oath, as may be rel-
8 evant or material to any investigation in con-
9 nection with the enforcement of this subchapter
10 or any application for a license under this sub-
11 chapter.

12 “(E) Investigate any violation of this sub-
13 chapter and any regulation under this sub-
14 chapter and any other violation of law relating
15 to the operation of an Internet gambling facil-
16 ity.

17 “(F) Conduct continuing reviews of appli-
18 cants and licensees and the operation of Inter-
19 net gambling facilities by use of technological
20 means, onsite observation of facilities, including
21 servers, or other reasonable means to assure
22 compliance with this subchapter and any regu-
23 lations promulgated hereunder.

24 “(2) ADMINISTRATIVE ASPECTS OF SUM-
25 MONS.—

1 “(A) PRODUCTION AT DESIGNATED
2 SITE.—A summons issued pursuant to this sub-
3 section may require that books, papers, records,
4 or other data stored or maintained at any place
5 be produced at any business location of a li-
6 censee or applicant for a license or any des-
7 ignated location in any State or in any territory
8 or other place subject to the jurisdiction of the
9 United States not more than 500 miles distant
10 from any place where the licensee or applicant
11 for a license operates or conducts business in
12 the United States.

13 “(B) NO LIABILITY FOR EXPENSES.—The
14 United States shall not be liable for any ex-
15 pense incurred in connection with the produc-
16 tion of books, papers, records, or other data
17 under this subsection.

18 “(C) SERVICE OF SUMMONS.—Service of a
19 summons issued under this subsection may be
20 by registered mail or in such other manner cal-
21 culated to give actual notice as the Secretary
22 may prescribe by regulation.

23 “(3) CONTUMACY OR REFUSAL.—

24 “(A) REFERRAL TO ATTORNEY GEN-
25 ERAL.—In case of contumacy by a person

1 issued a summons under this subsection or a
2 refusal by such person to obey such summons
3 or to allow the Secretary to conduct an exam-
4 ination, the Secretary shall refer the matter to
5 the Secretary of the Treasury for referral to the
6 Attorney General.

7 “(B) JURISDICTION OF COURT.—The At-
8 torney General may invoke the aid of any court
9 of the United States to compel compliance with
10 the summons within the jurisdiction of which—

11 “(i) the investigation which gave rise
12 to the summons or the examination is
13 being or has been carried on;

14 “(ii) the person summoned is an in-
15 habitant; or

16 “(iii) the person summoned carries on
17 business or may be found.

18 “(C) COURT ORDER.—The court may issue
19 an order requiring the person summoned to ap-
20 pear before the Secretary or a delegate of the
21 Secretary to produce books, papers, records,
22 and other data, to give testimony as may be
23 necessary to explain how such material was
24 compiled and maintained, to allow the Secretary

1 to examine the business of a licensee, and to
2 pay the costs of the proceeding.

3 “(D) FAILURE TO COMPLY WITH ORDER.—
4 Any failure to obey the order of the court may
5 be punished by the court as a contempt thereof.

6 “(E) SERVICE OF PROCESS.—All process
7 in any case under this subsection may be served
8 in any judicial district in which such person
9 may be found.

10 “(1) CIVIL MONEY PENALTIES.—

11 “(1) IN GENERAL.—The Secretary may assess
12 upon any licensee or other person subject to the re-
13 quirements of this subchapter for any willful viola-
14 tion of this subchapter or any regulation prescribed
15 or order issued under this subchapter, a civil penalty
16 of not more than the greater of—

17 “(A) the amount (not to exceed \$100,000)
18 involved in the violation, if any; or

19 “(B) \$25,000.

20 “(2) ASSESSMENT.—

21 “(A) WRITTEN NOTICE.—Any penalty im-
22 posed under paragraph (1) may be assessed and
23 collected by the Secretary by written notice.

24 “(B) FINALITY OF ASSESSMENT.—If, with
25 respect to any assessment under paragraph (1),

1 a hearing is not requested pursuant to subpara-
2 graph (E) within the period of time allowed
3 under such subparagraph, the assessment shall
4 constitute a final and unappealable order.

5 “(C) AUTHORITY TO MODIFY OR REMIT
6 PENALTY.—The Secretary may compromise,
7 modify, or remit any penalty which the Sec-
8 retary may assess or has already assessed
9 under paragraph (1).

10 “(D) MITIGATING FACTORS.—In deter-
11 mining the amount of any penalty imposed
12 under paragraph (1), the Secretary shall take
13 into account the appropriateness of the penalty
14 with respect to—

15 “(i) the size of the financial resources
16 and the good faith of the person against
17 whom the penalty is assessed;

18 “(ii) the gravity of the violation;

19 “(iii) the history of previous viola-
20 tions; and

21 “(iv) such other matters as justice
22 may require.

23 “(E) HEARING.—The person against
24 whom any penalty is assessed under paragraph
25 (1) shall be afforded an agency hearing if such

1 person submits a request for such hearing with-
2 in 20 days after the issuance of the notice of
3 assessment.

4 “(F) COLLECTION.—

5 “(i) REFERRAL.—If any person fails
6 to pay an assessment after any penalty as-
7 sessed under this paragraph has become
8 final, the Secretary shall recover the
9 amount assessed by action in the appro-
10 priate United States district court.

11 “(ii) APPROPRIATENESS OF PENALTY
12 NOT REVIEWABLE.—In any civil action
13 under clause (i), the validity and appro-
14 priateness of the penalty shall not be sub-
15 ject to review.

16 “(G) DISBURSEMENT.—All penalties col-
17 lected under authority of this subsection shall
18 be deposited into the Treasury.

19 “(3) CONDITION FOR LICENSURE.—Payment by
20 a licensee of any civil penalty assessed under this
21 subsection that has become final shall be a require-
22 ment for the retention of its license.

23 “(m) TREATMENT OF RECORDS.—In light of busi-
24 ness competition, confidentiality, and privacy concerns,
25 the Secretary shall protect from disclosure information

1 submitted in support of a license application under this
2 subchapter and information collected in the course of reg-
3 ulating licensees to the full extent permitted by sections
4 552 and 552a of title 5, United States Code.

5 “(n) SUITABILITY FOR LICENSING REQUIREMENTS
6 FOR CERTAIN SERVICE PROVIDERS.—

7 “(1) IN GENERAL.—Any person that knowingly
8 manages, administers, or controls bets or wagers
9 that are initiated, received, or otherwise made within
10 the United States or that otherwise manages or ad-
11 ministers the games with which such bets or wagers
12 are associated must meet all of the suitability for li-
13 censing criteria established under this section in the
14 same manner and to the same extent as if that per-
15 son were itself a licensee.

16 “(2) SUBJECT TO SAME ENFORCEMENT JURIS-
17 DICTION.—Any failure on the part of such person to
18 remain suitable for licensing shall be grounds for
19 revocation of the license of the licensee for whom
20 such service is provided, in the same manner and in
21 accordance with subsection (i).

22 “(o) RELIANCE ON STATE AND TRIBAL REGULATORY
23 BODY CERTIFICATIONS OF SUITABILITY FOR APPLI-
24 CANTS.—

1 “(1) QUALIFICATION OF STATE AND TRIBAL
2 REGULATORY BODIES.—

3 “(A) APPLICATION FOR DETERMINA-
4 TION.—Any State or tribal regulatory body with
5 expertise in regulating gambling may—

6 “(i) notify the Secretary of its willing-
7 ness to review prospective applicants to
8 certify whether any such applicant meets
9 the qualifications established under this
10 subchapter; and

11 “(ii) provide the Secretary with such
12 documentation as the Secretary determines
13 necessary for the Secretary to determine
14 whether such State or tribal regulatory
15 body is qualified to conduct such review
16 and may be relied upon by the Secretary to
17 make any such certification.

18 “(B) DETERMINATION AND NOTICE.—
19 Within 60 days after receiving any notice under
20 subparagraph(A)(i), the Secretary shall—

21 “(i) make the determination as to
22 whether a State or tribal regulatory body
23 is qualified to conduct a review of prospec-
24 tive applicants and may be relied upon to
25 certify whether any such applicant meets

1 the qualifications established under this
2 subchapter; and

3 “(ii) notify the State or tribal regu-
4 latory body of such determination.

5 “(2) ACTIONS BY QUALIFIED AUTHORITIES.—
6 During the period that any determination of quali-
7 fication under paragraph (1)(B) is in effect with re-
8 spect to any such State or tribal regulatory body,
9 the State or tribal regulatory body—

10 “(A) may undertake reviews of any appli-
11 cant to determine whether the applicant or any
12 person associated with the applicant meets the
13 criteria for suitability for licensing established
14 under this subchapter;

15 “(B) may impose on each such applicant
16 an administrative fee or assessment for con-
17 ducting such review in an amount the regu-
18 latory body determines to be necessary to meet
19 its expenses in the conduct of such review; and

20 “(C) shall process and assess each appli-
21 cant fairly and equally based on objective cri-
22 teria, regardless of any prior licensing of an ap-
23 plicant by the State or tribal regulatory body.

24 “(3) RELIANCE ON STATE OR TRIBAL CERTIFI-
25 CATION.—Any applicant may provide a certification

1 of suitability for licensing made by any State or trib-
2 al regulatory body under paragraph (2), together
3 with all documentation the applicant has submitted
4 to any such State or tribal regulatory body, to the
5 Secretary, and any such certification and docu-
6 mentation shall be relied on by the Secretary as evi-
7 dence that an applicant has met the suitability for
8 licensing requirements under this section.

9 “(4) AUTHORITY OF SECRETARY TO REVIEW.—

10 Notwithstanding any certification of suitability for
11 licensing made by any State or tribal regulatory
12 body, the Secretary retains the authority to review,
13 withhold, or revoke any license if the Secretary has
14 reason to believe that any applicant or licensee does
15 not meet the suitability requirements for licensing
16 established under this section, or any other require-
17 ment of a licensee.

18 “(5) RELIANCE ON QUALIFIED REGULATORY

19 BODY FOR OTHER PURPOSES.—At the discretion of
20 the Secretary, the Secretary may rely on any State
21 and tribal regulatory body found qualified under this
22 subsection for such other regulatory and enforce-
23 ment activities as the Secretary finds to be useful
24 and appropriate to carry out the purposes of this
25 subchapter.

1 “(6) REVOCATION OF QUALIFICATION.—The
2 Secretary may revoke, at any time and for any rea-
3 son, the qualification of any State or tribal regu-
4 latory body to certify or to conduct any other regu-
5 latory or enforcement activity to carry out the pur-
6 poses of this subchapter.

7 **“§ 5384. Problem Gambling, Responsible Gambling,**
8 **and Self-Exclusion Program**

9 “(a) REGULATIONS REQUIRED.—The Secretary and
10 any State or tribal regulatory body that has been qualified
11 under subsection 5383(o) shall prescribe regulations for
12 the development of a Problem Gambling, Responsible
13 Gambling, and Self-Exclusion Program on the basis of
14 standards that each licensee shall implement as a condi-
15 tion of licensure.

16 “(b) MINIMUM REQUIREMENTS.—Any application for
17 a license shall include a submission to the Secretary or
18 qualified State or tribal regulatory body setting forth a
19 comprehensive program that is intended—

20 “(1) to verify the identity and age of each cus-
21 tomer;

22 “(2) to ensure that no customers under the
23 legal age as defined by State or tribal law, as appli-
24 cable, may initiate or otherwise make any bets or
25 wagers;

1 “(3) to verify the State or tribal land in which
2 the customer is located at the time the customer at-
3 tempts to initiate a bet or wager;

4 “(4) to ensure that no customer who is located
5 in a State or tribal land that opts out pursuant to
6 section 5386 can initiate or otherwise make a bet or
7 wager prohibited by such opt-out;

8 “(5) to ensure that responsible gambling mate-
9 rials are made available to customers upon request;

10 “(6) to make available individualized respon-
11 sible gambling options that any customer may
12 choose, including any stake limit, loss limit, deposit
13 limit, and session time limit option, and any other
14 similar option, that the Secretary or qualified State
15 or tribal regulatory body may deem appropriate and
16 require to be made available;

17 “(7) to protect the privacy and security of any
18 customer in connection with any lawful Internet
19 gambling activity; and

20 “(8) to protect against fraud and money laun-
21 dering relating to Internet gambling activity.

22 “(c) LIST OF PERSONS SELF-EXCLUDED FROM GAM-
23 BLING ACTIVITIES.—

24 “(1) ESTABLISHMENT.—

1 “(A) IN GENERAL.—The Secretary shall
2 provide by regulation for the establishment of a
3 list of persons self-excluded from gambling ac-
4 tivities at all licensee sites.

5 “(B) PLACEMENT REQUEST.—Any person
6 may request placement on the list of self-ex-
7 cluded persons by—

8 “(i) acknowledging in a manner to be
9 established by the Secretary that the per-
10 son wishes to be denied gambling privi-
11 leges; and

12 “(ii) agreeing that, during any period
13 of voluntary exclusion, the person may not
14 collect any winnings or recover any losses
15 resulting from any gambling activity at
16 any licensee sites.

17 “(2) PLACEMENT AND REMOVAL PROCE-
18 DURES.—The regulations prescribed by the Sec-
19 retary under paragraph (1)(A) shall establish proce-
20 dures for placements on, and removals from, the list
21 of self-excluded persons.

22 “(3) LIMITATION ON LIABILITY.—

23 “(A) IN GENERAL.—The United States,
24 the Secretary, an enforcement agent, or a li-
25 censee, or any employee or agent of the United

1 States, the Secretary, an enforcement agent, or
2 a licensee, shall not be liable to any self-ex-
3 cluded person or to any other party in any judi-
4 cial or administrative proceeding for any harm,
5 monetary or otherwise, which may arise as a re-
6 sult of—

7 “(i) any failure to withhold gambling
8 privileges from, or to restore gambling
9 privileges to, a self-excluded person; or

10 “(ii) otherwise permitting a self-ex-
11 cluded person to engage in gambling activ-
12 ity while on the list of self-excluded per-
13 sons.

14 “(B) RULE OF CONSTRUCTION.—No provi-
15 sion of subparagraph (A) shall be construed as
16 preventing the Director from assessing any reg-
17 ulatory sanction against a licensee for failing to
18 comply with the minimum standards prescribed
19 pursuant to this subsection.

20 “(4) DISCLOSURE PROVISIONS.—

21 “(A) IN GENERAL.—Notwithstanding any
22 other provision of Federal or State law, the list
23 of self-excluded persons shall not be open to
24 public inspection.

1 “(B) AFFILIATE DISCLOSURE.—Any li-
2 censees may disclose the identities of persons on
3 the self-excluded list to any affiliated company
4 or, where required to comply with this sub-
5 section, any service provider, to the extent that
6 the licensee ensures that any affiliated company
7 or service provider maintains such information
8 under confidentiality provisions comparable to
9 those in this subsection.

10 “(5) LIMITATION ON LIABILITY FOR DISCLO-
11 SURE.—A licensee or an employee, agent, or affiliate
12 of a licensee shall not be liable to any self-excluded
13 person or to any other party in any judicial pro-
14 ceeding for any harm, monetary or otherwise, which
15 may arise as a result of disclosure or publication in
16 any manner.

17 “(d) GAMBLING BY PROHIBITED PERSONS.—

18 “(1) PROHIBITION BENEFITTING FROM PRO-
19 HIBITED GAMBLING ACTIVITY.—A person who is
20 prohibited from gambling with a licensee by law, or
21 by order of the Secretary or any court of competent
22 jurisdiction, including any person on the self-exclu-
23 sion list as established in accordance with subsection
24 (c), shall not collect, in any manner or proceeding,

1 any winnings or recover any losses arising as a re-
2 sult of any prohibited gambling activity.

3 “(2) FORFEITURE.—In addition to any other
4 penalty provided by law, any money or thing of value
5 that has been obtained by, or is owed to, any prohib-
6 ited person by a licensee as a result of bets or wa-
7 gers made by a prohibited person shall be subject to
8 forfeiture by order of the Secretary, following notice
9 to the prohibited person and opportunity to be
10 heard.

11 “(3) DEPOSIT OF FORFEITED FUNDS.—Any
12 funds forfeited pursuant to this subsection shall be
13 deposited into the general fund of the Treasury.

14 “(e) PROBLEM OR COMPULSIVE GAMBLERS NOT ON
15 THE LIST OF SELF-EXCLUDED PERSONS.—

16 “(1) PUBLIC AWARENESS PROGRAM.—

17 “(A) IN GENERAL.—The Secretary and
18 any State or tribal regulatory body that has
19 been qualified under subsection 5383(o) shall
20 provide by regulation for the establishment of a
21 program to alert the public to the existence,
22 consequences, and availability of the self-exclu-
23 sion list, and shall prepare and promulgate
24 written materials to be used in such a program.

1 “(B) LICENSEE-PROVIDED PUBLICITY.—
2 Regulations prescribed under subparagraph (A)
3 may require a licensee to make available lit-
4 erature or screen displays relating to the exist-
5 ence of the program.

6 “(2) RULE OF CONSTRUCTION.—No provision
7 of this subsection shall be construed as creating a
8 legal duty in the Secretary, a qualified State or trib-
9 al regulatory body, a licensee, or any representative
10 of a licensee to identify or to exclude problem or
11 compulsive gamblers not on the list of self-excluded
12 persons.

13 “(3) IMMUNITY.—The United States, the Sec-
14 retary, a qualified State or tribal regulatory body, a
15 licensee, and any employee or agent of a licensee,
16 shall not be liable to any person in any proceeding
17 for losses or other damages of any kind arising out
18 of that person’s gambling activities based on a claim
19 that the person was a compulsive, problem, or patho-
20 logical gambler.

21 **“§ 5385. Financial transaction providers**

22 “(a) IN GENERAL.—No financial transaction pro-
23 vider shall be held liable for engaging in financial activities
24 and transactions for or on behalf of a licensee or involving
25 a licensee, including payments processing activities, if such

1 activities are performed in compliance with this sub-
2 chapter and with applicable Federal and State laws.

3 “(b) DEFINITIONS.—For purposes of this section, the
4 following definitions shall apply:

5 “(1) FINANCIAL TRANSACTION PROVIDER.—

6 The term ‘financial transaction provider’ means a
7 creditor, credit card issuer, financial institution, op-
8 erator of a terminal at which an electronic fund
9 transfer may be initiated, money transmitting busi-
10 ness, or international, national, regional, or local
11 payment network utilized to effect a credit trans-
12 action, electronic fund transfer, stored value product
13 transaction, or money transmitting service, or a par-
14 ticipant in such network, or other participant in a
15 payment system.

16 “(2) OTHER TERMS.—

17 “(A) CREDIT, CREDITOR, CREDIT CARD,
18 AND CARD ISSUER.—The terms ‘credit’, ‘cred-
19 itor’, ‘credit card’, and ‘card issuer’ have the
20 meanings given the terms in section 103 of the
21 Truth in Lending Act.

22 “(B) ELECTRONIC FUND TRANSFER.—The
23 term ‘electronic fund transfer’—

24 “(i) has the meaning given the term
25 in section 903 of the Electronic Fund

1 Transfer Act, except that the term includes
2 transfers that would otherwise be excluded
3 under section 903(6)(E) of such Act; and

4 “(ii) includes any fund transfer cov-
5 ered by Article 4A of the Uniform Com-
6 mercial Code, as in effect in any State.

7 “(C) FINANCIAL INSTITUTION.—The term
8 ‘financial institution’ has the meaning given the
9 term in section 903 of the Electronic Fund
10 Transfer Act, except that such term does not
11 include a casino, sports book, or other business
12 at or through which bets or wagers may be
13 placed or received.

14 “(D) INSURED DEPOSITORY INSTITU-
15 TION.—The term ‘insured depository institu-
16 tion’—

17 “(i) has the meaning given the term
18 in section 3(e) of the Federal Deposit In-
19 surance Act; and

20 “(ii) includes an insured credit union
21 (as defined in section 101 of the Federal
22 Credit Union Act).

23 “(E) MONEY TRANSMITTING BUSINESS
24 AND MONEY TRANSMITTING SERVICE.—The
25 terms ‘money transmitting business’ and

1 ‘money transmitting service’ have the meanings
2 given the terms in section 5330(d) (determined
3 without regard to any regulations prescribed by
4 the Secretary under such section).

5 **“§ 5386. Limitation of licenses in States and Indian**
6 **lands**

7 “(a) STATE OPT-OUT EXERCISE.—

8 “(1) LIMITATIONS IMPOSED BY STATES.—

9 “(A) IN GENERAL.—No licensee may en-
10 gage, under any license issued under this sub-
11 chapter, in the operation of an Internet gam-
12 bling facility that knowingly accepts bets or wa-
13 gers initiated by persons who reside in any
14 State which provides notice that it will limit
15 such bets or wagers, if the Governor or other
16 chief executive officer of such State informs the
17 Director of such limitation, in a manner which
18 clearly identifies the nature and extent of such
19 limitation, before the end of the 90-day period
20 beginning on the date of the enactment of the
21 Internet Gambling Regulation, Consumer Pro-
22 tection, and Enforcement Act, or in accordance
23 with paragraph (2), until such time as any no-
24 tice of any amendment or repeal of such spe-

1 cific limitation becomes effective under para-
2 graph (2).

3 “(B) COORDINATION BETWEEN STATE AND
4 TRIBAL OPT-OUT EXERCISES.—Any State limi-
5 tation under subparagraph (A) shall not apply
6 to the acceptance by a licensee of bets or wa-
7 gers from persons located within the tribal
8 lands of an Indian tribe that—

9 “(i) has itself opted out pursuant to
10 subsection (b) (in which case the tribal
11 opt-out exercise under such subsection
12 shall apply); or

13 “(ii) would be entitled pursuant to
14 other applicable law to permit such bets or
15 wagers to be initiated and received within
16 its territory without use of the Internet.

17 “(C) COORDINATION WITH INDIAN GAMING
18 REGULATORY ACT.—No decision by a State
19 under this subsection shall be considered in
20 making any determination with regard to the
21 ability of an Indian tribe to offer any class of
22 gambling activity pursuant to section 11 of the
23 Indian Gaming Regulatory Act.

24 “(2) CHANGES TO STATE LIMITATIONS.—The
25 establishment, repeal, or amendment by any State of

1 any limitation referred to in paragraph (1) after the
2 end of the 90-day period beginning on the date of
3 the enactment of this subchapter shall apply, for
4 purposes of this subchapter, beginning on the first
5 January 1 that occurs after the end of the 60-day
6 period beginning on the later of—

7 “(A) the date a notice of such establish-
8 ment, repeal, or amendment is provided by the
9 Governor or other chief executive officer of such
10 State in writing to the Secretary; or

11 “(B) the effective date of such establish-
12 ment, repeal, or amendment.

13 “(b) INDIAN TRIBE OPT-OUT EXERCISE.—

14 “(1) LIMITATIONS IMPOSED BY INDIAN
15 TRIBES.—No Internet gambling licensee knowingly
16 may accept a bet or wager from a person located in
17 the tribal lands of any Indian tribe which limits such
18 gambling activities or other contests if the principal
19 chief or other chief executive officer of such Indian
20 tribe informs the Secretary of such limitation, in a
21 manner which clearly identifies the nature and ex-
22 tent of such limitation, before the end of the 90-day
23 period beginning on the date of the enactment of the
24 Internet Gambling Regulation, Consumer Protection,
25 and Enforcement Act, or in accordance with para-

1 graph (2), until such time as any notice of any
2 amendment or repeal of such specific limitation be-
3 comes effective under paragraph (2).

4 “(2) CHANGES TO INDIAN TRIBE LIMITA-
5 TIONS.—The establishment, repeal, or amendment
6 by any Indian tribe of any limitation referred to in
7 paragraph (1) after the end of the 90-day period be-
8 ginning on the date of the enactment of this sub-
9 chapter shall apply, for purposes of this subchapter,
10 beginning on the first January 1 that occurs after
11 the end of the 60-day period beginning on the later
12 of—

13 “(A) the date a notice of such establish-
14 ment, repeal, or amendment is provided by the
15 principal chief or other chief executive officer of
16 such Indian tribe in writing to the Secretary; or

17 “(B) the effective date of such establish-
18 ment, repeal, or amendment.

19 “(c) NOTIFICATION AND ENFORCEMENT OF STATE
20 AND INDIAN TRIBE LIMITATIONS.—

21 “(1) IN GENERAL.—The Secretary shall notify
22 all licensees and applicants of all States and Indian
23 tribes that have provided notice pursuant to para-
24 graph (1) or (2) of subsection (a) or (b), as the case
25 may be, promptly upon receipt of such notice and in

1 no event fewer than 30 days before the effective date
2 of such notice.

3 “(2) COMPLIANCE.—The Secretary shall take
4 effective measures to ensure that any licensee under
5 this subchapter, as a condition of the license, com-
6 plies with any limitation or prohibition imposed by
7 any State or Indian tribe to which the licensee is
8 subject under subsection (a) or (b), as the case may
9 be.

10 “(3) VIOLATIONS.—It shall be a violation of
11 this subchapter for any licensee knowingly to accept
12 bets or wagers initiated or otherwise made by per-
13 sons located within any State or in the tribal lands
14 of any Indian tribe for which a notice is in effect
15 under subsection (a) or (b), as the case may be.

16 “(4) STATE ATTORNEY GENERAL ENFORCE-
17 MENT.—In any case in which the attorney general of
18 a State, or any State or local law enforcement agen-
19 cy authorized by the State attorney general or by
20 State statute to prosecute violations of consumer
21 protection law, has reason to believe that an interest
22 of the residents of that State has been or is threat-
23 ened or adversely affected by a violation by a li-
24 censee pursuant to paragraph (2), the State, or the
25 State or local law enforcement agency on behalf of

1 the residents of the agency’s jurisdiction, may bring
2 a civil action on behalf of the residents of that State
3 or jurisdiction in a district court of the United
4 States located therein, to—

5 “(A) enjoin that practice; or

6 “(B) enforce compliance with this sub-
7 chapter.

8 **“§ 5387. Professional and Amateur Sports Protection**
9 **Act prohibitions**

10 “No provision of this subchapter shall be construed
11 as authorizing any licensee to operate an Internet gam-
12 bling facility that knowingly accepts bets or wagers on
13 sporting events from persons located in the United States
14 in violation of section 3702 of title 28, United States
15 Code, except for fantasy or simulation sports games (as
16 defined in section 5362 of this title).

17 **“§ 5388. Safe harbors**

18 “It shall be a complete defense against any prosecu-
19 tion or enforcement action under any Federal or State law
20 against any person possessing a valid license under this
21 subchapter that the activity is authorized under and has
22 been carried out lawfully under the terms of this sub-
23 chapter.

1 **“§ 5389. Relation to section 1084 of title 18 and the**
2 **Unlawful Internet Gambling Enforcement**
3 **Act**

4 “Section 1084 of title 18 and subchapter IV of this
5 chapter shall not apply to any Internet bet or wager occur-
6 ring pursuant to a license issued by the Secretary under
7 this subchapter.

8 **“§ 5390. Cheating and other fraud**

9 “(a) ELECTRONIC CHEATING DEVICES PROHIB-
10 ITED.—No person initiating, receiving, or otherwise mak-
11 ing a bet or wager with a licensee, or sending, receiving,
12 or inviting information assisting with a bet or wager with
13 a licensee, knowingly shall use, or assist another in the
14 use of, an electronic, electrical, or mechanical device which
15 is designed, constructed, or programmed specifically for
16 use in obtaining an advantage in any game authorized
17 under this subchapter, where such advantage is prohibited
18 or otherwise violates the rules of play established by the
19 licensee.

20 “(b) ADDITIONAL OFFENSE.—No person initiating,
21 receiving, or otherwise making a bet or wager with a li-
22 censee, or sending, receiving, or inviting information as-
23 sisting with a bet or wager with a licensee, knowingly shall
24 use or possess any cheating device with intent to cheat
25 or defraud any licensee or other persons placing bets or
26 wagers with such licensee.

1 “(c) PERMANENT INJUNCTION.—Upon conviction of
 2 a person for violation of this section, the court may enter
 3 a permanent injunction enjoining such person from initi-
 4 ating, receiving, or otherwise making bets or wagers or
 5 sending, receiving, or inviting information assisting in the
 6 placing of bets or wagers.

7 “(d) CRIMINAL PENALTY.—Whoever violates sub-
 8 section (a) or (b) of this section shall be fined under title
 9 18 of the United States Code or imprisoned for not more
 10 than 5 years, or both.”.

11 (b) RULES OF CONSTRUCTION.—

12 (1) TECHNICAL AND CONFORMING AMEND-
 13 MENT.—Section 310(b)(2) of title 31, United States
 14 Code is amended—

15 (A) by redesignating subparagraphs (J)
 16 and (K) as subparagraphs (K) and (L), respec-
 17 tively; and

18 (B) by inserting after subparagraph (I) the
 19 following new subparagraph:

20 “(J) Administer the requirements of sub-
 21 chapter V of chapter 53.”.

22 (c) CLERICAL AMENDMENT.—The table of sub-
 23 chapters and sections for chapter 53 of title 31, United
 24 States Code, is amended by adding at the end the fol-
 25 lowing:

“SUBCHAPTER V—REGULATION OF LAWFUL INTERNET GAMBLING

- “5381. Congressional findings and purpose.
- “5382. Definitions.
- “5383. Establishment and administration of licensing program.
- “5384. Minimum requirements: Problem Gambling, Responsible Gambling, and Self-Exclusion Program.
- “5385. Financial transaction providers.
- “5386. Limitation of licenses in States and Indian lands.
- “5387. Professional and Amateur Sports Protection Act prohibitions.
- “5388. Safe harbors.
- “5389. Relation to section 1084 of title 18 and the Unlawful Internet Gambling Enforcement Act.
- “5390. Cheating and other fraud.”.

1 SEC. 426. REPORT REQUIRED.

2 (a) IN GENERAL.—Before the end of the 1-year pe-
 3 riod beginning on the effective date of the regulations pre-
 4 scribed under section 327(a), and annually thereafter, the
 5 Secretary shall submit a report to Congress on the licens-
 6 ing and regulation of Internet gambling operators.

7 (b) INFORMATION REQUIRED.—Each report sub-
 8 mitted under subsection (a) shall include the following in-
 9 formation:

10 (1) A comprehensive statement regarding the
 11 prohibitions notified by the States and Indian tribes
 12 pursuant to section 5386 of title 31, United States
 13 Code.

14 (2) Relevant statistical information on appli-
 15 cants and licenses.

16 (3) The amount of licensing and user fees col-
 17 lected during the period covered by the report.

18 (4) Information on regulatory or enforcement
 19 actions undertaken during the period.

1 (5) Any other information that may be useful
2 to Congress in evaluating the effectiveness of the
3 Act in meeting its purpose, including the provision
4 of protections against underage gambling, compul-
5 sive gambling, money laundering, and fraud, and in
6 combating tax avoidance relating to Internet gam-
7 bling.

8 **SEC. 427. EFFECTIVE DATE.**

9 (a) REGULATIONS.—The Secretary of the Treasury
10 shall prescribe such regulations as the Secretary may de-
11 termine to be appropriate to implement subchapter V of
12 chapter 53 of title 31, United States Code (as added by
13 this Act) and shall publish such regulations in final form
14 in the Federal Register before the end of the 180-day pe-
15 riod beginning on the date of the enactment of this Act.

16 (b) SCOPE OF APPLICATION.—The amendment made
17 by section 325(a) shall apply after the end of the 90-day
18 period beginning on the date of the publication of the reg-
19 ulations in final form in accordance with subsection (a).

20 **Subtitle D—Miscellaneous**

21 **SEC. 431. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

22 (a) DISALLOWANCE OF DEDUCTION.—

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

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

4 “(1) TREBLE DAMAGES.—If”, and

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

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

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

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

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

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

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

1 son of the taxpayer's liability (or agreement) to pay puni-
2 tive damages.”.

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

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

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

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

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

18 **SEC. 432. APPLICATION OF MEDICARE PAYROLL TAX TO**
19 **ALL STATE AND LOCAL GOVERNMENT EM-**
20 **PLOYEES.**

21 (a) IN GENERAL.—Paragraph (2) of section 3121(u)
22 is amended—

23 (1) by striking “subparagraphs (B) and (C)” in
24 subparagraph (A) and inserting “subparagraph
25 (B)”, and

1 (2) by striking subparagraphs (C) and (D).

2 (b) ENTITLEMENT TO HOSPITAL INSURANCE BENE-
3 FITS.—Subsection (p) of section 210 of the Social Security
4 Act is amended—

5 (1) by striking “paragraphs (2) and (3)” in
6 paragraph (1)(B) and inserting “paragraph (2)”,
7 and

8 (2) by striking paragraphs (3) and (4).

9 (c) CONFORMING AMENDMENT.—Paragraph (2) of
10 section 218(v) of the Social Security Act is amended to
11 read as follows:

12 “(2) This subsection shall apply only with re-
13 spect to employees who are not otherwise covered
14 under the State’s agreement under this section.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to services performed after the
17 date of the enactment of this Act.

18 **SEC. 433. CORRECTIONS FOR CPI OVERSTATEMENT IN**
19 **COST-OF-LIVING INDEXATION.**

20 (a) IN GENERAL.—Paragraph (3) of section 1(f) (de-
21 fining Consumer Price Index), as amended by this Act, is
22 amended to read as follows:

23 “(3) COST-OF-LIVING ADJUSTMENT.—

1 “(A) IN GENERAL.—For purposes of para-
2 graph (2), the cost-of-living adjustment for any
3 calendar year is the product of—

4 “(i) the CPI fraction for calendar
5 years before 2013, multiplied by

6 “(ii) the Chained CPI fraction for cal-
7 endar years after 2012,

8 reduced by 1.

9 “(B) CPI FRACTION FOR CALENDAR
10 YEARS BEFORE 2013.—The CPI fraction for cal-
11 endar years before 2013 is the fraction—

12 “(i) the numerator of which is the
13 CPI for the calendar year 2011, and

14 “(ii) the denominator of which is the
15 CPI for the calendar year 2010.

16 “(C) CHAINED CPI FRACTION FOR CAL-
17 ENDAR YEARS AFTER 2012.—The Chained CPI
18 fraction for calendar years after 2012 is the
19 fraction—

20 “(i) the numerator of which is the
21 Chained CPI for the preceding calendar
22 year, and

23 “(ii) the denominator of which is the
24 Chained CPI for the calendar year 2011.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Paragraph (4) of section 1(f) is amended to
2 read as follows:

3 “(4) CPI AND CHAINED CPI FOR ANY CAL-
4 ENDAR YEAR.—For purposes of paragraph (3)—

5 “(A) CPI.—The CPI for any calendar year
6 is the average of the Consumer Price Index as
7 of the close of the 12-month period ending on
8 August 31 of such calendar year.

9 “(B) CHAINED CPI.—The Chained CPI for
10 any calendar year is the average of the Chained
11 Consumer Price Index as of the close of the 12-
12 month period ending on August 31 of such cal-
13 endar year.”.

14 (2) Paragraph (5) of section 1(f) is amended to
15 read as follows:

16 “(5) CONSUMER PRICE INDEX AND CHAINED
17 CONSUMER PRICE INDEX.—For purposes of para-
18 graph (4)—

19 “(A) CONSUMER PRICE INDEX.—The term
20 ‘Consumer Price Index’ means the last Con-
21 sumer Price Index for all-urban consumers pub-
22 lished by the Department of Labor. For pur-
23 poses of the preceding sentence, the revision of
24 the Consumer Price Index which is most con-

1 sistent with the Consumer Price Index for cal-
2 endar year 1986 shall be used.

3 “(B) CHAINED CONSUMER PRICE INDEX.—
4 The term ‘Chained Consumer Price Index’
5 means the initial Chained Consumer Price
6 Index for all-urban consumers published by the
7 Department of Labor.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2012.

11 **TITLE V—TECHNICAL AND** 12 **CONFORMING AMENDMENTS**

13 **SEC. 501. TECHNICAL AND CONFORMING AMENDMENTS.**

14 The Secretary of the Treasury or the Secretary’s del-
15 egate shall not later than 90 days after the date of the
16 enactment of this Act, submit to the Committee on Ways
17 and Means of the House of Representatives and the Com-
18 mittee on Finance of the Senate a draft of any technical
19 and conforming changes in the Internal Revenue Code of
20 1986 which are necessary to reflect throughout such Code
21 the purposes of the provisions of, and amendments made
22 by, this Act.

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